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ABSTRACT

This document presents the texts of selected titles, sections, and amendments of federal laws dealing with specific aspects of postsecondary education. It is divided into the following major parts: (1) "General Higher Education Programs"; (2) "Native American Higher Education"; (3) "National Science Foundation"; (4) Mathematics, Science, and Engineering"; and (5) "Assistance to Specified Institutions." Selected titles and subsections include those from the Higher Education Act of 1965; the Higher Education Amendments of 1968, 1980, 1986, and 1992; the National Science Foundation Act of 1950; and the Excellence in Mathematics, Science, and Engineering Education Act of 1990. Among the subjects addressed are institutional and student financial assistance; educator recruitment, retention, and development; international education programs; academic facility improvement and construction; cooperative education; land-grant status for colleges in the United States, Virgin Islands, and Guam; postsecondary education legislation directed at American Indians; and educational improvements in the areas of mathematics and the sciences. (GLR)

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ED 369 325

[COMMITTEE PRINT]

A COMPILATION OF FEDERAL EDUCATION LAWS

VOLUME III—HIGHER EDUCATION

As Amended Through March 1994

PREPARED FOR THE USE OF THE

COMMITTEE ON EDUCATION AND LABOR

OF THE

U.S. HOUSE OF REPRESENTATIVES

Serial No. 103–J

AND FOR THE USE OF THE

COMMITTEE ON LABOR AND HUMAN RESOURCES

OF THE

UNITED STATES SENATE

ONE HUNDRED THIRD CONGRESS
SECOND SESSION

MARCH 1994

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U.S. DEPARTMENT OF EDUCATION
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PART I—GENERAL HIGHER EDUCATION PROGRAMS

Higher Education Act of 1965

(P.L. 89–329)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act of 1965".

TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

PART A—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS[1]

SEC. 101. PURPOSE.

It is the purpose of this part to encourage partnerships between institutions of higher education or State higher education agencies and secondary schools serving low-income and disadvantaged students, to support programs that—

(1) improve the retention and graduation rates at such secondary schools;

(2) improve the academic skills of public and private nonprofit secondary school students;

(3) increase such students' opportunities to continue a program of education after secondary school; and

(4) improve such students' prospects for employment after secondary school.

(20 U.S.C. 1001) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 459.

SEC. 102. AGREEMENT.

(a) AGREEMENT.—To be eligible for a grant under this part, an institution of higher education, a State higher education agency, or a consortium consisting of any of the preceding entities thereof shall enter into a written partnership agreement with a local educational agency. Such partnership may include businesses, labor organizations, professional associations, community-based organizations, public television stations or other telecommunications entities, or other public or private agencies or organizations. Each entity participating in the partnership shall sign the agreement.

(b) CONTENTS OF AGREEMENT.—The agreement shall include—

---

[1] This program was originally enacted as part B of title V of this Act (P.L. 99–498, sec. 501(a), 100 Stat. 1498).

(1) a listing of all participants in the partnership, including a designation of the official representatives of each entity participating in the partnership;

(2) a description of the responsibilities of each participant in the partnership; and

(3) a listing of the resources to be contributed by each participant in the partnership.

(20 U.S.C. 1002) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 459.

SEC. 103. GRANTS.

(a) DIVISION BETWEEN SCHOOL-YEAR AND SUMMER PROGRAMS.—From the funds appropriated to carry out this part pursuant to section 106, the Secretary shall reserve 65 percent of such funds to carry out programs operating during the regular school year and 35 percent of such funds to carry out programs operating during the summer.

(b) AMOUNT AND USE OF GRANTS.—

(1) AMOUNT.—The Secretary shall make grants under this part in amounts which are not less than $250,000 and not more than $1,000,000.

(2) PERMITTED USES OF FUNDS.—Grants under this part may be used by the partnership for programs that—

(A) use college students to tutor secondary school students and improve their basic academic skills or to involve secondary school students in community service-learning projects;

(B) are designed to improve the basic academic skills of secondary school students;

(C) are designed to increase the understanding of specific subjects of secondary school students;

(D) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

(E) are designed to increase the prospects for employment after graduation of secondary school students.

(c) PREFERENCES.—In making grants under this part, the Secretary shall give a preference to—

(1) programs which will serve predominantly low-income communities;

(2) partnerships which will run programs during the regular school year and summer;

(3) programs which will serve educationally disadvantaged students; students with disabilities; potential dropouts; pregnant adolescents and teenage parents; children of migratory agricultural workers or of migratory fishermen; or students whose native language is other than English; and

(4) programs designed to encourage women and minorities who are underrepresented in the fields of science and mathematics to pursue these fields.

(d) DURATION.—Each grant awarded under this part may be awarded for a period not to exceed 5 years.

(e) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

(20 U.S.C. 1003) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 459; amended December 20, 1993, P.L. 103–208, sec. 2(a)(1), 107 Stat. 2457.

SEC. 104. GRANT APPLICATION.

(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this part shall submit an application to the Secretary, in such form and providing such information as the Secretary, by regulation, shall require.

(b) CONTENTS OF APPLICATION.—The application shall include—

(1) the partnership agreement described in section 102;

(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

(3) a description of the activities and services for which assistance is sought;

(4) a description of the programs to be developed and operated by the partnership; and

(5) assurances to the Secretary that—

(A) the partnership will establish a governing body including one representative of each participant in the partnership;

(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

(C) a local educational agency or institution of higher education receiving funds under this part shall not reduce its combined fiscal effort per student or its aggregate expenditure on education;

(D) a local educational agency or institution of higher education participating in this partnership shall utilize any Federal funds it shall receive from a grant under this part to supplement, and, to the extent practicable, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students described in this part; and

(E) in no case shall funds under such a grant be used to supplant non-Federal funds already available.

(c) SPECIAL RULE.—The non-Federal share of grants awarded under this part may be in cash or in kind fairly evaluated, including services, supplies or equipment.

(d) WAIVER.—The Secretary may waive the matching requirement described in paragraph (5)(B) for any eligible partnership that demonstrates to the satisfaction of the Secretary a unique hardship that prevents compliance with such matching requirement.

(20 U.S.C. 1004) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 460; amended December 20, 1993, P.L. 103–208, sec. 2(a)(2), 107 Stat. 2457.

SEC. 105. PEER REVIEW.

The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with officials of the other Federal agencies and with non-Federal organizations to ensure that the panel membership shall be geographically balanced and be composed of representatives from public and private institutions of elementary, secondary, and higher education, labor, business, and State and local governments, who have expertise in community service or in education.

(20 U.S.C. 1005) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 461.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(20 U.S.C. 1006) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 461.

PART B—ARTICULATION AGREEMENTS

SEC. 121. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) because more than one-half of all first-time first-year students attending postsecondary institutions attend community or junior colleges, and because almost one-half of minority students enrolled in higher education attend 2-year institutions, community and junior colleges represent a substantial and an important educational resource;

(2) declining participation rates for low-income students and minorities at institutions of higher education is of growing concern to the higher education community and Congress; and

(3) there is growing awareness of the need to assist low-income, minority and other nontraditional students in bridging the gap between 2-year to 4-year institutions, enabling such students to reach their individual potential, as well as contribute to the larger society.

(b) PURPOSE.—The purpose of this part is to improve the educational opportunities of this Nation's postsecondary students by creating comprehensive articulation agreements and planning between partnerships of 2-year and 4-year institutions of higher education.

(20 U.S.C. 1011) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 461.

SEC. 122. AUTHORIZATION OF GRANTS.

(a) ASSISTANCE FOR ARTICULATION PARTNERSHIPS.—From amounts appropriated for this part, the Secretary shall make grants to States to enable States to make awards, either on a competitive basis or on the basis of a formula determined by the State, to articulation partnerships between—

(1) a qualified 2-year institution; and

(2) a qualified 4-year institution.

(b) QUALIFIED INSTITUTIONS.—For purposes of this part—

(1) a qualified 2-year institution is an institution of higher education (as determined under section 481(a)) that is an eligible institution under section 435(a) and that—

(A) is a nonprofit institution that offers a 2-year associate degree or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate degree program; and

(2) a qualified 4-year institution is an institution of higher education (as determined under section 481(a)) that is an eligible institution under section 435(a) and that offers a baccalaureate degree program.

(c) ALLOCATION AND STATE GRANTS.—

(1) FORMULA ALLOCATION.—In any fiscal year for which the amount made available under section 129 to carry out the provisions of this part equals or exceeds $50,000,000, the Secretary shall allot an amount that bears the same ratio to the amount appropriated under section 129 for such fiscal year as the total amount received under title IV by students attending institutions of higher education in that State for such fiscal year bears to the total amount received under title IV by all students for such fiscal year, based on the most recent year for which such data are available.

(2) COMPETITIVE GRANTS.—In any fiscal year for which the amount made available under section 129 to carry out the provisions of this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States to carry out articulation agreements under sections 124 and 125.

(20 U.S.C. 1011a) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 462.

SEC. 123. STATE APPLICATION.

Each State that desires to receive a grant under this part shall submit an application to the Secretary in such form and containing or accompanied by such information as the Secretary may require. Such application shall—

(1) after consultation with the State agencies responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions, designate a sole State agency as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

(2) describe how funds will be allocated in a manner consistent with section 124;

(3) contain assurances that the State will comply with the requirements of this part;

(4) provide for an annual submission of data concerning the use of funds and students served with assistance under this part; and

(5) provide that the State will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluation.

(20 U.S.C. 1011b) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 462.

SEC. 124. LOCAL APPLICATIONS.

Any articulation partnership comprised of qualified institutions that desires to receive a grant from a State under this part shall submit an application to the State in such form and containing or accompanied by such information as the State may require and shall—

(1) include in the articulation agreement—

(A) assurances that academic credit earned at the qualified institution described in section 122(b)(1) will be transferable to the qualified institution or institutions as described in section 122(b)(2);

(B) development of articulation agreement programs and services appropriate to the needs of the partnership participants;

(C) activities that facilitate the development of programs and services appropriate to the needs of the students attending courses covered by the articulation agreement;

(D) inservice training for faculty designed to implement effective articulation agreements;

(E) counseling services; and

(F) information concerning programs contained in the articulation agreement;

(2) include assurances that the articulation partnership has the qualified personnel required—

(A) to develop, administer, and implement the program required by this part; and

(B) to provide special training necessary to prepare staff for the program; and

(3) include a plan of operation for the program which includes a description of—

(A) the program goals;

(B) the uses of funds as required by paragraph (2);

(C) the activities and services which will be provided under the program (including training and preparation of staff); and

(D) the subject areas to be included in the articulation agreement.

(20 U.S.C. 1011c) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 463.

SEC. 125. ARTICULATION AGREEMENT.

(a) LENGTH OF GRANT.—Each recipient of a grant from a State shall use the amounts provided under the grant to develop and operate articulation agreements for 6 years.

(b) USE OF FUNDS.—Funds provided to an articulation partnership under this part may be used—

(1) to perform any activity or program required by section 124;

(2) as part of the program's planning activities, to acquire technical assistance from Federal, State, or local entities that have successfully designed, established, and operated articulation programs;

(3) to provide workshops with students and teachers, counseling for students to continue their education to a bachelors degree, orientation visits at institutions participating in the partnerships;

(4) to develop agreements with local educational agencies for vocational course equivalency approval procedures for purposes of satisfying entrance requirements to qualified institutions; and

(5) to provide outreach to potential students.

(20 U.S.C. 1011d) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 463.

SEC. 126. STATE ADMINISTRATION.

A State may reserve not more than 3 percent of the amounts available under this part for any fiscal year for State administrative costs including monitoring and technical assistance.

(20 U.S.C. 1011e) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 464.

SEC. 127. PRIORITY.

The State shall give priority to grant applications for programs which—

(1) encourage teacher education;

(2) have, as one of the partners participating in an articulation agreement, an entity participating in an articulation agreement described in section 344(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act;

(3) contribute their own institutional resources;

(4) are not subject to a default reduction agreement under section 428F;

(5) encourage technology education; or

(6) encourage articulation in subject areas of national importance as determined by the Secretary.

(20 U.S.C. 1011f) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 464.

SEC. 128. REPORTS.

(a) STATE REPORTS.—Each State shall submit to the Secretary an annual report on the operation of the program under this part in such State during the preceding year. Such report shall include such information as the Secretary may require by regulation.

(b) EVALUATION AND DISSEMINATION.—

(1) EVALUATION.—The Secretary shall, on the basis of the reports submitted under subsection (a), evaluate all or a sample of the programs conducted under this part for the purposes of—

(A) determining the success or failure of such programs in increasing access and entry of students from 2-year institutions to 4-year institutions; and

(B) identifying the most successful programs under this part and the causes for such success.

(2) DISSEMINATION.—The Secretary shall, not later than January 31, 1996, submit a report to the Congress on the results of the evaluation described in paragraph (1). The Secretary shall disseminate the findings made pursuant to subparagraph (B) through appropriate agencies and organizations.

(3) RESERVATION.—The Secretary may reserve up to 3 percent of the amount appropriated under section 129 to carry out this subsection.

(20 U.S.C. 1011g) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 464.

SEC. 129. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part, $25,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1011h) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 465.

PART C—ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS

SEC. 131. PROGRAM ESTABLISHED; AUTHORIZATION OF APPROPRIATIONS; ELIGIBILITY.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to eligible partnerships to enable such partnerships to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 132.

(b) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

(c) ELIGIBLE PARTNERSHIP.—For the purpose of this part the term "eligible partnership' means a partnership which—

(1) shall consist of—

(A) a public broadcasting entity or a consortium thereof; and

(B) an institution of higher education or a consortium thereof; and

(2) may also include a State, a unit of local government, or a public or private nonprofit organization.

(d) FEDERAL SHARE.—The Federal share shall be 50 percent.

(20 U.S.C. 1015) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 465.

SEC. 132. APPLICATION.

(a) IN GENERAL.—Each eligible partnership desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(1) describe the education telecommunications activities or services to be assisted;

(2) describe the administrative and management structure supporting such activities or services;

(3) provide assurances that the financial interests of the United States in the telecommunications equipment, software and other facilities shall be protected for the useful life of such equipment, software or facilities;

(4) describe the manner in which nontraditional postsecondary education students will benefit from the activities and services supported;

(5) describe the manner in which special services, including captioned films, television, descriptive video and education media for individuals with disabilities, shall be supported; and

(6) provide assurances that the eligible partnership will provide the non-Federal share of assistance under this part.

(c) APPROVAL OF APPLICATIONS.—

(1) IN GENERAL.—The Secretary shall, in approving applications under this part, give priority to applications which describe programs that—

(A) include support for services to make captioned films, descriptive video and educational media available to individuals with disabilities who otherwise lack access to such educational materials;

(B) will provide, directly or indirectly, activities or services to a significant number of postsecondary institutions;

(C) improve access to accredited telecommunications coursework for individuals with disabilities otherwise denied such access;

(D) will be available in a multistate area;

(E) include evidence of significant support for the program from the business community; or

(F) provide matching funds, in an amount which exceeds the required non-Federal share.

(2) EQUITABLE GEOGRAPHIC DISTRIBUTION OF ASSISTANCE.—In approving applications under this part the Secretary shall ensure the equitable geographic distribution of grants awarded under this part.

(20 U.S.C. 1015a) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 465.

SEC. 133. AUTHORIZED ACTIVITIES.

Grants awarded under this part shall be used for one or more of the following activities:

(1) The acquisition of site equipment to provide the technical ability to receive diverse education services at schools, campuses, and work site locations.

(2) Satellite, fiber optic and other distribution systems, and for local broadcast or other local distribution capability.

(3) Pre-service or in-service education and training for kindergarten through 12th grade teachers through interactive television conferencing.

(4) Preparation of telecommunications programs and software that support national, regional or statewide efforts to provide teaching and learning materials not otherwise available for local use.

(5) A loan service of captioned films, descriptive video and educational media in order to make such materials available, in accordance with regulations issued by the Secretary, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including addressing problems of illiteracy among individuals with disabilities.

(20 U.S.C. 1015b) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 466.

SEC. 134. DEFINITION.

For the purpose of this part, the term "public broadcasting entity" has the same meaning given to such term by section 397(11) of the Communications Act of 1934.

(20 U.S.C. 1015c) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 466.

SEC. 135. REPORT.

(a) IN GENERAL.—Each recipient of a grant under this part shall submit a report to the Secretary not later than 30 days after the conclusion of the grant period.

(b) CONTENTS.—Each report described in subsection (a) shall include—

(1) a description of activities and services assisted under this part;

(2) a description of the population served by the program; and

(3) an assessment of the ability of private sector entities participating in the eligible partnership to continue the support of the activities and services in the absence of Federal funding.

(c) DISSEMINATION.—The Secretary shall select reports received under this subsection that are appropriate for dissemination to the education community and shall make such reports available through the National Diffusion Network.

(20 U.S.C. 1015d) Enacted July 23, 1992, P.L. 102–325, sec. 101, 106 Stat. 466.

TITLE II—ACADEMIC LIBRARIES AND INFORMATION SERVICES

SEC. 201. PURPOSE; AUTHORIZATION.

(a) PURPOSE.—The Secretary shall carry out a program to assist—

(1) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part A;

(2) in the education and training of persons in library and information science and to encourage research and development relating to improvement of libraries (including the promotion of economical and effective information delivery, cooperative efforts, and developmental projects) in accordance with part B;

(3) the Nation's major research libraries, in maintaining and strengthening their collections, and in making information resources available to other libraries whose users have need for research materials in accordance with part C; and

(4) historically black colleges and universities and other minority-serving institutions with programs in library and information sciences to train and educate African-Americans and other underrepresented racial, national origin, and ethnic minorities in such programs in accordance with part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PART A.—There are authorized to be appropriated to carry out part A $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) PART B.—There are authorized to be appropriated to carry out part B $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) PART C.—There are authorized to be appropriated to carry out part C $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(4) PART D.—There are authorized to be appropriated to carry out part D $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1021) Enacted Nov. 8, 1965, P.L. 89–329, sec. 201, 79 Stat. 1224; amended Oct. 16, 1968, P.L. 90–575, sec. 211, 82 Stat. 1036; amended June 23, 1972, P.L. 92–318, sec. 111(b)(1), 86 Stat. 238; amended October 12, 1976, P.L. 94–482, sec. 106, 90 Stat. 2089; amended October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1384; amended October 17, 1986, P.L. 99–498, sec. 201(b), (c), 100 Stat. 1287; amended Aug. 23, 1988, P.L. 100–418, sec. 6241, 102 Stat. 1520; amended July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 467.

SEC. 202. NOTIFICATION OF STATE AGENCY.

Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

(20 U.S.C. 1022) Enacted Nov. 8, 1965, P.L. 89–329, sec. 202, 79 Stat. 1224; amended Nov. 3, 1966, P.L. 89–752, sec. 9, 80 Stat. 1243; amended Oct. 16, 1968, P.L. 90–575, sec. 214, 82 Stat. 1037; amended June 23, 1972, P.L. 92–318, sec. 111(b)(2)(A), 86 Stat. 238; amended and redesignated June 23, 1972, P.L. 92–318, sec. 112, 86 Stat. 240; amended October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1384; amended July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 468.

SEC. 203. LIBRARY EXPERTS.

The Secretary shall make every effort to ensure that programs under this title are administered by appropriate library experts.

(20 U.S.C. 1023) Enacted July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 468.

PART A—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS[1]

SEC. 211. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to make grants for technological equipment, networking, and other special purposes to—

(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, maintenance, or upgrading of technological equipment necessary to organize, access or utilize material in electronic formats and to participate in networks for the accessing and sharing of library and information resources;

(2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment for the accessing and sharing of library and information resources;

(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of

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[1] This part was originally enacted as part D of this title (P.L. 99–498, sec. 207, 100 Stat. 1289).

establishing, developing, or expanding programs or projects that improve the services provided by such organizations to institutions of higher education; and

(4) institutions of higher education conducting research or demonstration projects that improve information services to meet special national or regional needs by utilizing technology to enhance library or information services such as through the National Research and Education Network.

(b) AWARDS REQUIREMENTS.—From funds appropriated for this part, the Secretary shall make competitive awards to institutions, combinations of institutions, or organizations in each of the categories described in paragraphs (1) through (4) of subsection (a).

(c) AMOUNT.—

(1) IN GENERAL.—The Secretary shall award grants under this section in an amount which is not less than $25,000.

(2) SPECIAL RULE.—The Secretary shall award grants pursuant to paragraph (1) of subsection (a) in an amount which is not more than $50,000 for each institution of higher education.

(d) PRIORITY.—In awarding grants pursuant to paragraph (1) of subsection (a), the Secretary shall give priority to institutions of higher education seeking assistance for projects which assist developing institutions of higher education in linking one or more institutions of higher education to resource sharing networks.

(e) DURATION.—The Secretary shall award grants under this section for a period not to exceed 3 years.

(f) APPLICATION.—

(1) IN GENERAL.—Each institution of higher education or combination thereof desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(2) CONTENT.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services for which assistance is sought; and

(B) contain assurances that the applicant will expend during the period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

(3) CRITERIA.—The Secretary shall prescribe by regulation criteria for the approval of applications submitted under this section.

(20 U.S.C. 1029) Enacted October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1384; amended October 17, 1986, P.L. 99–498, sec. 207, 100 Stat. 1276; amended July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 468.

PART B—LIBRARY EDUCATION, RESEARCH, AND DEVELOPMENT

SEC. 221. GRANTS AUTHORIZED.

(a) GRANTS.—From the amounts appropriated for this part for any fiscal year, the Secretary shall make grants in accordance with sections 222 and 223.

(b) RESERVATION.—Of the amount appropriated for this part for any fiscal year, the Secretary shall make available two-thirds of such amount for the purpose of section 222 and one-third of such amount for the purpose of section 223.

(20 U.S.C. 1031) Enacted June 23, 1972, P.L. 92-318, sec. 111(b)(3)(A), 86 Stat. 239; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1385; amended October 17, 1986, P.L. 99-498, sec. 204(b)(1), 100 Stat. 1289; amended July 23, 1992, P.L. 102-325, sec. 201, 106 Stat. 469.

SEC. 222. LIBRARY EDUCATION AND HUMAN RESOURCE DEVELOPMENT.

(a) PURPOSE AND GRANT CRITERIA.—The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education and library organizations or agencies to assist such institutions, library organizations, or agencies in educating and training persons in library and information science, particularly in areas of critical needs, such as recruitment and retention of minorities. Such grants or contracts may be used by such institutions, library organizations, or agencies to—

(1) assist in covering the cost of courses of study or staff development (including short term or regular session institutes),

(2) establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows who demonstrate need and who are working toward a graduate degree (and their dependents), not in excess of such maximum amounts as may be determined by the Secretary, and

(3) establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

(b) ADDITIONAL REQUIREMENTS.—Not less than 50 percent of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

(20 U.S.C. 1032) Enacted Nov. 8, 1965, P.L. 89-329, sec. 223, 79 Stat. 1227; amended Oct. 16, 1968, P.L. 90-575, sec. 216, 82 Stat. 1037; amended June 23, 1972, P.L. 92-318, sec. 111(b)(3) (B) and (K); redesignated by P.L. 92-318, sec. 111(b)(3)(D), 86 Stat. 240; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1385; amended July 23, 1992, P.L. 102-325, sec. 201, 106 Stat. 469.

SEC. 223. RESEARCH AND DEMONSTRATION.

The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education and other public and private agencies, institutions, and organizations for research and development projects related to the improvement of libraries, education in library and information science, the enhancement of library services through effective and efficient use of new technologies, and for the dissemination of information derived from such projects.

(20 U.S.C. 1033) Enacted Nov. 8, 1965, P.L. 89–329, sec. 224, 79 Stat. 1228; subsec. (c) repealed Apr. 13, 1970, P.L. 91–230, sec. 401(h) and superseded by pt. C of title IV of P.L. 90–247, as amended. (20 U.S.C. 1233c.); redesignated June 23, 1972, P.L. 92–318, sec. 111(b)(3)(D), 86 Stat. 240; amended October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1385; amended October 17, 1986, P.L. 99–498, sec. 205, 100 Stat. 1289; amended July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 470.

SEC. 224. CONSULTATION REQUIREMENTS.

The Secretary shall consult with the appropriate library and information science professional bodies in the determination of critical needs under section 222 and in the determination of priorities under section 223.

(20 U.S.C. 1034) Enacted July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 470.

PART C—IMPROVING ACCESS TO RESEARCH LIBRARY RESOURCES

SEC. 231. RESEARCH LIBRARY RESOURCES.

(a) GRANTS.—

(1) GENERAL AUTHORITY.—From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

(2) MAJOR RESEARCH LIBRARY.—For the purposes of this part, the term “major research library” means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

(A) makes a significant contribution to higher education and research;

(B) is broadly based and is recognized as having national or international significance for scholarly research;

(C) is of a unique nature, and contains material not widely available; and

(D) is in substantial demand by researchers and scholars not connected with that institution.

(b) ELIGIBILITY.—In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.

(20 U.S.C. 1041) Enacted Nov. 8, 1965, P.L. 89–329, sec. 231, 79 Stat. 1228; amended Oct. 16, 1968, P.L. 90–575, sec. 217, 218, 82 Stat. 1037–1038; amended June 23, 1972, P.L. 92–318, sec. 114, 86 Stat. 240; amended Oct. 12, 1976, P.L. 94–482, sec. 107, 90 Stat. 2090; amended October 3, 1980, P.L. 96–374, sec. 201, 94 Stat. 1386; amended October 17, 1986, P.L. 99–498, sec. 204(b)(2), 206, 100 Stat. 1289; amended July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 470.

SEC. 232. GEOGRAPHICAL DISTRIBUTION OF GRANTS.

In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

(20 U.S.C. 1042) Enacted June 23, 1972, P.L. 92–318, sec. 115(a), 86 Stat. 241; amended Oct. 12, 1976, P.L. 94–482, sec. 107, 90 Stat. 2090; amended October 3,

1980, P.L. 96–374, sec. 201, 94 Stat. 1386; amended July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 471.

PART D—STRENGTHENING LIBRARY AND INFORMATION SCIENCE PROGRAMS AND LIBRARIES IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

SEC. 241. STRENGTHENING LIBRARY AND INFORMATION SCIENCE PROGRAMS AND LIBRARIES IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS.

(a) ELIGIBLE INSTITUTIONS.—For the purposes of this section, the term "eligible institution" means—

(1) an historically black college or university; or

(2) an institution of higher education which—

(A) serves a large number or high percentage of minority students; and

(B) enrolls and graduates minority students in library and information science programs.

(b) GENERAL AUTHORITY.—

(1) AUTHORITY OF SECRETARY.—The Secretary is authorized to make grants to, and enter into contracts with—

(A) eligible institutions to assist such institutions in strengthening their library and information science programs and library resources; and

(B) eligible institutions, and library organizations or agencies which have nationally approved programs in library and information science, to assist such institutions and organizations in the education and training of African Americans and other underrepresented racial, national origin, and ethnic minorities, particularly in areas of critical needs of library and information science.

(2) USE OF FUNDS.—Such grants or contracts may be used by such institutions, library organizations, or agencies to—

(A) establish, develop, or strengthen libraries and library and information science programs, including new techniques of information transfer and communication technology;

(B) assist in covering the cost of courses of study or staff development (including short-term or regular session institutes); and

(C) establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows who demonstrate need and who are working toward a graduate degree (and their dependents), not in excess of such maximum amounts as may be determined by the Secretary.

(c) TRAINEESHIPS.—Not less than 50 percent of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

(d) Funding Prohibition.—Notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out this part for any fiscal year unless the amount appropriated to carry out each of parts A, B, and C for such fiscal year equals or exceeds the amount appropriated for such parts, respectively, for fiscal year 1992.

(20 U.S.C. 1047) Enacted July 23, 1992, P.L. 102–325, sec. 201, 106 Stat. 471; amended December 20, 1993, P.L. 103–208, sec. 2(a)(3), 107 Stat. 2457.

TITLE III—INSTITUTIONAL AID

SEC. 301. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning and development activities, including endowment building;

(3) the title III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority, low-income students;

(4) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

(5) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;

(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

(7) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

(b) Purpose.—It is the purpose of this title to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

(20 U.S.C. 1051) Enacted June 23, 1972, P.L. 92–318, sec. 121(a), 86 Stat. 241; amended Oct. 12, 1976, P.L. 94–482, sec. 111, 90 Stat. 2091; amended October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1390; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1290; amended July 23, 1992, P.L. 102–325, sec. 301, 106 Stat. 472; amended December 20, 1993, P.L. 103–208, secs. 2(a)(4), (m), 107 Stat. 2457, 2486.

PART A—STRENGTHENING INSTITUTIONS

SEC. 311. PROGRAM PURPOSE.

(a) GENERAL AUTHORIZATION.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) GRANTS AWARDED; SPECIAL CONSIDERATION.—(1) From the sums available for this part under section 360(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

(2) Special consideration shall be given to any eligible institution—

(A) which has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions; or

(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

(A) faculty development;

(B) funds and administrative management;

(C) development and improvement of academic programs;

(D) acquisition of equipment for use in strengthening funds management and academic programs;

(E) joint use of facilities such as libraries and laboratories; and

(F) student services.

(20 U.S.C. 1057) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1391; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1291; amended June 3, 1987, P.L. 100–50, sec. 2(a)(1), 101 Stat. 335; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 312. DEFINITIONS; ELIGIBILITY.

(a) EDUCATIONAL AND GENERAL EXPENDITURES.—For the purpose of this part, the term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

(b) ELIGIBLE INSTITUTION.—For the purpose of this part, the term "eligible institution" means—

(1) an institution of higher education—

(A) which has an enrollment of needy students as required by subsection (c) of this section;

(B) except as provided in section 352(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(C)(i) which is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (ii) which is a junior or community college;

(D) which is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which is, according to such an agency or association, making reasonable progress toward accreditation; and

(E) which meets such other requirements as the Secretary may prescribe; and

(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

(c) ENROLLMENT OF NEEDY STUDENTS.—For the purpose of this part, the term "enrollment of needy students" means an enrollment at an institution of higher education or a junior or community college which includes—

(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under title IV of this Act in the second fiscal year preceding the fiscal year for which the determination is being made (other than loans for which an interest subsidy is paid pursuant to section 428), or

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this subdivision is waived under section 352(a).

(d) FULL-TIME EQUIVALENT STUDENTS.—For the purpose of this part, the term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(e) JUNIOR OR COMMUNITY COLLEGE.—For the purpose of this part, the term "junior or community college" means an institution of higher education—

(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(f) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this title is eligible for or may receive funds under this part.

(20 U.S.C. 1058) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1391; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1292; amended June 3, 1987, P.L. 100–50, sec. 2(a)(2)–(6), 101 Stat. 335; amended July 18, 1988, P.L. 100–369, sec. 10, 102 Stat. 837–838; amended July 23, 1992, P.L. 102–325, sec. 302(a)–(b), 106 Stat. 472; amended December 20, 1993, P.L. 103–208, sec. 2(a)(5), (m), 107 Stat. 2457, 2486.

SEC. 313. DURATION OF GRANT.

(a) AWARD PERIOD.—The Secretary may award a grant to an eligible institution under this part for 5 years.

(b) LIMITATIONS.—In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part, except that for the purpose of this subsection a grant under section 354(a)(1) shall not be considered a grant under this part.

(c) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

(20 U.S.C. 1059) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1392; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1294; amended July 23, 1992, P.L. 102–325, sec. 302(c), 106 Stat. 472; amended December 20, 1993, P.L. 103–208, sec. 2(a)(6), (m), 107 Stat. 2457, 2486.

SEC. 314. APPLICATION REVIEW PROCESS.

(a) REVIEW PANEL.—(1) All applications submitted under part A by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(2) The Secretary shall take care to include as readers representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of students who are Hispanic, Native American, Asian American, and Native American Pacific Islander (including Native Hawaiians).

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under part A, including—

(A) explanations and examples of the types of activities referred to in section 311(b) that must receive special consideration for grants awarded under part A;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under part A; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under part A, the amount of any such grant, and the duration of any such grant.

(b) RECOMMENDATIONS OF PANEL.—In awarding grants under part A, the Secretary shall take into consideration the recommendations of the panel established under subsection (a).

(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under part A of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under part A and any modifications, if any, in the recommendations of the panel made by the Secretary.

(20 U.S.C. 1059a) Enacted June 3, 1987, P.L. 100–50, sec. 2(b), 101 Stat. 336; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 315. GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAM.

(a) GOALS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

(b) CONTINUATION REQUIREMENTS.—Any continuation application shall demonstrate the progress made toward achievement of the goals described pursuant to subsection (a).

(20 U.S.C. 1059b) Enacted July 23, 1992, P.L. 102–325, sec. 302(d)(1), 106 Stat. 473.

SEC. 316. HISPANIC-SERVING INSTITUTIONS.

(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

(b) DEFINITIONS.—For the purpose of this section—

(1) the term "Hispanic-serving institution" means an institution of higher education which—

(A) is an eligible institution under section 312(b);

(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students;

(C) provides assurances that—

(i) not less than 50 percent of its Hispanic students are low-income individuals who are first generation college students; and

(ii) another 25 percent of its Hispanic students are either low-income individuals or first generation college students;

(2) the term "first generation college student" means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

(3) the term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(c) AUTHORIZED ACTIVITIES.—

(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs.

(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction;

(D) curriculum development and academic instruction;

(E) purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) joint use of facilities such as laboratories and libraries; and

(H) academic tutoring and counseling programs and student support services.

(d) APPLICATION PROCESS.—

(1) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this Act shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is a Hispanic-serving institution as defined in paragraph (1) of subsection (b), along with such

other information and data as the Secretary may by regulation require.

(2) APPLICATIONS.—Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the information and data submitted under paragraph (1)) may submit an application for assistance under this section to the Secretary. Such application shall include—

(A) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic and other low-income students; and

(B) such other information and assurance as the Secretary may require.

(3) PRIORITY.—The Secretary shall give priority to applications that contain satisfactory evidence that such institution has entered into or will enter into a collaborative arrangement with at least one local educational agency to provide such agency with assistance (from funds other than funds provided under this part) in reducing Hispanic dropout rates, improving Hispanic rates of academic achievement, and increasing the rates at which Hispanic high school graduates enroll in higher education.

(e) SPECIAL RULE.—For the purposes of this section, no Hispanic-serving college or university which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.

(20 U.S.C. 1059c) Enacted July 23, 1992, P.L. 102–325, sec. 302(d)(1), 106 Stat. 473; amended December 20, 1993, P.L. 103–208, sec. 2(a)(7), 107 Stat. 2457.

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

SEC. 321. FINDINGS AND PURPOSES.

The Congress finds that—

(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this Act and other Federal programs which benefit institutions of higher education;

(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are

appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

(20 U.S.C. 1060) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1393; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1294; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 322. DEFINITIONS.

For the purpose of this part:

(1) The term "graduate" means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

(2) The term "part B institution" means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation, except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 321 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from the date of enactment of this exception, be considered a part B institution.

(3) The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part A of title IV of this Act.

(4) The term "professional and academic areas in which Blacks are underrepresented" shall be determined by the Secretary and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

(5) The term "school year" means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

(20 U.S.C. 1061) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1393; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1294; amended July 18, 1988, P.L. 100–369, sec. 10(c), 102 Stat. 838; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 323. GRANTS TO INSTITUTIONS.

(a) GENERAL AUTHORIZATION; USES OF FUNDS.—From amounts available under section 360(a)(2) in any fiscal year the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

(3) Support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

(4) Academic instruction in disciplines in which Black Americans are underrepresented.

(5) Purchase of library books, periodicals, microfilm, and other educational materials, including telecommunications program materials.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

(11) Establishing community outreach programs which will encourage elementary and secondary students to develop the academic skills and the interest to pursue postsecondary education.

(12) Other activities proposed in the application submitted pursuant to section 325 that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(b) LIMITATIONS.—(1) No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term "school or department of divinity" means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

(3) The Secretary shall not award a grant under this part for telecommunications technology equipment, facilities or services, if such equipment, facilities or services are available pursuant to section 396(k) of the Communications Act of 1934.

(20 U.S.C. 1062) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1395; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1295; amended June 3, 1987, P.L. 100–50, sec. 2(a)(7), 101 Stat. 335; amended July 18, 1988, P.L. 100–369, sec. 10(b), 102 Stat. 838; amended July 23, 1992, P.L. 102–325, sec. 303(a)–(b), 106 Stat. 474; amended December 20, 1993, P.L. 103–208, sec. 2(a)(8), (m), 107 Stat. 2457, 2486.

SEC. 324. ALLOTMENTS TO INSTITUTIONS.

(a) ALLOTMENT; PELL GRANT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

(b) ALLOTMENT; GRADUATES BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

(c) ALLOTMENT; GRADUATE AND PROFESSIONAL STUDENT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at, within 5 years of graduation with a baccalaureate degree, a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions.

(d) MINIMUM ALLOTMENT.—(1) Notwithstanding subsections (a), (b), and (c), the amount allotted to each part B institution under this section shall not be less than $500,000.

(2) If the amount appropriated pursuant to section 360(a)(2)(A) for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocation shall be increased on the same basis as they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).

(e) REALLOTMENT.—The amount of any part B institution's allotment under subsection (a), (b), (c), or (d) for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

(f) SPECIAL MERGER RULE.—(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

(g) SPECIAL RULE FOR CERTAIN DISTRICT OF COLUMBIA ELIGIBLE INSTITUTIONS.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

(20 U.S.C. 1063) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1395; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1296; amended October 21, 1986, P.L. 99–509, sec. 7007, 100 Stat. 1950; amended July 23, 1992, P.L. 102–325, sec. 303(c)–(d), 106 Stat. 475; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 325. APPLICATIONS.

(a) CONTENTS.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for any period unless that institution meets the requirements of subparagraphs (C), (D), and (E) of section 312(b)(1) and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this Act will be used for the purposes set forth in section 323; and

(2) provide for making an annual report to the Secretary and provide for—

(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(B) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit.

(b) APPROVAL.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

(c) GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAMS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs and include a plan of how the applicant intends to achieve those goals.

(20 U.S.C. 1063a) Enacted October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1296; amended June 3, 1987, P.L. 100–50, sec. 2(a)(8), 101 Stat. 335; amended July

23, 1992, P.L. 102–325, sec. 303(e), 106 Stat. 475; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 326. PROFESSIONAL OR GRADUATE INSTITUTIONS.

(a) GENERAL AUTHORIZATION.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for Black Americans.

(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources except that the Morehouse School of Medicine shall receive at least $3,000,000.

(b) DURATION.—Grants shall be made for a period not to exceed 5 years. No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.

(c) USES OF FUNDS.—A grant under this section may be used for—

(1) any of the purposes enumerated under section 323;

(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 332 of this title.

(d) APPLICATION.—Any institution eligible for a grant under this section shall submit an application which—

(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provides, in the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(e) ELIGIBILITY.—

(1) IN GENERAL.—Independent professional or graduate institutions and programs eligible for grants under subsection (a) include—

(A) Morehouse School of Medicine;

(B) Meharry Medical School;

(C) Charles R. Drew Postgraduate Medical School;

(D) Clark-Atlanta University;

(E) Tuskegee University School of Veterinary Medicine;

(F) Xavier University School of Pharmacy;

(G) Southern University School of Law;

(H) Texas Southern University School of Law and School of Pharmacy;

(I) Florida A&M University School of Pharmaceutical Sciences;

(J) North Carolina Central University School of Law;

(K) Morgan State University qualified graduate program;

(L) Hampton University qualified graduate program;

(M) Alabama A&M qualified graduate program;

(N) North Carolina A&T State University qualified graduate program;

(O) University of Maryland Eastern Shore qualified graduate program; and

(P) Jackson State qualified graduate program.

(2) QUALIFIED GRADUATE PROGRAM.—For the purposes of this section, the term "qualified graduate program" means a graduate or professional program that—

(A) provides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented; and

(B) has students enrolled in such program at the time of application for a grant under this section.

(3) SPECIAL RULE.—Graduate institutions that were awarded grants under this section prior to October 1, 1992 shall continue to receive such grant payments, regardless of the eligibility of the graduate institutions described in subparagraphs (F) through (P), until such grant period has expired or September 30, 1993, whichever is later.

(4) ONE GRANT PER INSTITUTION.—The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education or university system.

(f) FUNDING RULE.—Of the amount appropriated to carry out this section for any fiscal year—

(1) the first $12,000,000 (or any lesser amount appropriated) shall be available only for the purposes of making grants to institutions or programs described in subparagraphs (A) through (E) of subsection (e)(1);

(2) any amount appropriated in excess of $12,000,000 shall be available—

(A) for the purposes of making grants, in equal amounts not to exceed $500,000, to institutions or programs described in subparagraphs (F) through (P) of subsection (e)(1); and

(B) secondly for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1).

(20 U.S.C. 1063b) Enacted October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1297; amended June 3, 1987, P.L. 100–50, sec. 2(a)(9)–(10), 101 Stat. 335; amended July 23, 1992, P.L. 102–325, sec. 303(f)–(g), 106 Stat. 475; amended December 20, 1993, P.L. 103–208, sec. 2(a)(9), (m), 107 Stat. 2457, 2486.

SEC. 327. REPORTING AND AUDIT REQUIREMENTS.

(a) RECORDKEEPING.—Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such assistance;

(2) the cost of the project or undertaking in connection with which such assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit.

(b) REPAYMENT OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this title shall be repaid to the Treasury of the United States.

(20 U.S.C. 1063c) Enacted October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1298; amended June 3, 1987, P.L. 100–50, sec. 2(a)(11), 101 Stat. 335; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

PART C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

SEC. 331. ENDOWMENT CHALLENGE GRANTS.

(a) PURPOSE; DEFINITIONS.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For the purpose of this section:

(A) The term "endowment fund" means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term "endowment fund income" means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(D)(i) The term "eligible institution" means an institution that is an—

(I) eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

(II) institution eligible for assistance under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) GRANTS AUTHORIZED.—(1) From sums available for this section under section 360, the Secretary is authorized to award endowment challenge grants to eligible institutions to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(B) The Secretary may make a grant under this part to an eligible institution under the following circumstances:

(i) In any fiscal year in which the amount appropriated to carry out this part is less than $15,000,000, the institution—

(I) may apply for a grant in an amount not exceeding $500,000; and

(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

(ii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $15,000,000 but less than $25,000,000, the institution—

(I) may apply for a grant in an amount not exceeding $1,000,000; and

(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

(iii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $25,000,000, the institution may apply for a grant in an amount not to exceed $1,500,000 if such institution has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

(C)(i) Except as provided in clause (ii), if the appropriation for this part in a fiscal year is $20,000,000 or less, an eligible institution of higher education that is awarded a grant under subsection (b)(2)(B) of this section shall not be eligible to reapply for a grant under subsection (b)(2)(B) of this section during the 10 years immediately following the period that such institution received such a grant.

(ii) If the appropriation for this part in any fiscal year is greater than $20,000,000, an eligible institution of higher education that is awarded a grant under subsection (b)(2)(B) of this section shall not be eligible to reapply for a grant under subsection (b)(2)(B) of this section during the 5 years immediately following the period that such institution received such a grant. This provision shall apply for the fiscal year in which the appropriation is greater than $20,000,000 and subsequent fiscal years, regardless of the appropriation in those fiscal years.

(3) The period of a grant under this section shall be not more than 10 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in subsection (a)(2)(D) of this section.

(B) No institution shall be ineligible for an endowment challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

(5) An endowment challenge grant awarded under this section to an eligible institution shall be in an amount which is not less than $50,000 in any fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

(c) GRANT AGREEMENT; ENDOWMENT FUND PROVISIONS.—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

(d) REPAYMENT PROVISIONS.—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

(e) AUDIT INFORMATION.—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

(f) SELECTION CRITERIA.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

(1) give priority to an applicant that is receiving assistance under part A or part B or has received a grant under part A or part B of this title within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) APPLICATION.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe, including a description of the long- and short-term plans for raising and using the funds under this part. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

(h) TERMINATION AND RECOVERY PROVISIONS.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

(20 U.S.C. 1065) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1396; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1299; amended June 3, 1987, P.L. 100–50, sec. 2(a)(12), 101 Stat. 336; amended July 23, 1992, P.L. 102–325, sec. 304(a)(3), (b), 106 Stat. 476; amended December 20, 1993, P.L. 103–208, secs. 2(a)(8), (10), (11), and (m), 107 Stat. 2457, 2458, 2486.

PART D—GENERAL PROVISIONS

SEC. 351. APPLICATIONS FOR ASSISTANCE.

(a) APPLICATION REQUIRED; APPROVAL.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

(b) CONTENTS.—An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will

be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 357;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (E); and

(8) include such other information as the Secretary may prescribe.

(c) PRIORITY CRITERIA PUBLICATION REQUIRED.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

(d) ELIGIBILITY DATA.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV of this Act in making eligibility determinations under section 312 and shall advance the base-year forward following each annual grant cycle.

(20 U.S.C. 1066) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1396; renumbered and amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1302; amended June 3, 1987, P.L. 100–50, sec. 2(a)(13), 101 Stat. 336; amended July 23, 1992, P.L. 102–325, sec. 305(a), 106 Stat. 478; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 352. WAIVER AUTHORITY AND REPORTING REQUIREMENT.

(a) WAIVER REQUIREMENTS; NEED-BASED ASSISTANCE STUDENTS.—The Secretary may waive the requirements set forth in section 312(b)(1)(A) in the case of an institution—

(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

(2) which serves a substantial number of low-income students as a percentage of its total student population;

(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians; or

(6) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians.

(b) WAIVER DETERMINATIONS; EXPENDITURES.—(1) The Secretary may waive the requirements set forth in section 312(b)(1)(B) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A is otherwise consistent with the purposes of such parts.

(2) The Secretary shall submit to the Congress every other year a report concerning the institutions which, although not satisfying the criterion contained in section 312(b)(1)(B), have been determined to be eligible institutions under part A institutions which enroll significant numbers of Black American, Hispanic, Native American, Asian American, or Native Hawaiian students under part A, as the case may be. Such report shall—

(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with subparagraphs (A) and (B) of section 312(b)(1); and

(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

(3) The Secretary may waive the requirement set forth in section 312(b)(1)(E) in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.

(20 U.S.C. 1067) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1398; renumbered and amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1304; amended June 3, 1987, P.L. 100–50, sec. 2(a)(14)–(15), 101 Stat. 336; amended July 23, 1992, P.L. 102–325, sec. 305(b), 106 Stat. 478; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 353. APPLICATION REVIEW PROCESS.

(a) REVIEW PANEL.—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

(b) RECOMMENDATIONS OF PANEL.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(20 U.S.C. 1068) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1398; renumbered and amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1305; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 354. COOPERATIVE ARRANGEMENTS.

(a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) DURATION.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or section 323.

(20 U.S.C. 1069) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1399; renumbered and amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1305; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

[Section 355 was repealed by P.L. 102–325, sec. 305(c), 106 Stat. 478.]

SEC. 356. ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS.

(a) ASSISTANCE ELIGIBILITY.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B may be eligible for waivers in accordance with subsection (b).

(b) WAIVER APPLICABILITY.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

(c) LIMITATION.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

(20 U.S.C. 1069b) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1400; renumbered and amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1306; amended July 23, 1992, P.L. 102–325, sec. 305(d), 106 Stat. 478; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 357. LIMITATIONS.

The funds appropriated under section 360 may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

(20 U.S.C. 1069c) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1400; amended Sept. 26, 1983, P.L. 98–95, sec. 3, 97 Stat. 711; amended June 12, 1984, P.L. 98–312, sec. 1, 98 Stat. 233; renumbered and amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1307; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 358. PENALTIES.

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(20 U.S.C. 1069d) Enacted October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1307; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

[Section 359 was repealed by P.L. 102–325, sec. 305(c), 106 Stat. 478.]

SEC. 360. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—

(1) PART A.—(A) There are authorized to be appropriated to carry out part A, $135,000,000 (other than section 316) for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B)(i) There are authorized to be appropriated to carry out section 316, $45,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(ii) No funds are authorized to be appropriated pursuant to clause (i) for any fiscal year unless the amount appropriated pursuant to paragraph (1)(A) for such fiscal year equals or exceeds $80,000,000.

(2) PART B.—(A) There are authorized to be appropriated to carry out part B (other than section 326), $135,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 326, $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) PART C.—There are authorized to be appropriated to carry out part C, $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

(c) RESERVATIONS.—If the amount appropriated under subsection (a)(1) for part A for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986, the Secretary shall, for such fiscal year—

(1) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions at which at least 60 percent of the students are African Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

(2) allocate 75 percent of such excess among other eligible institutions.

(d) RATABLE REDUCTION IN FISCAL YEAR IN WHICH AMOUNTS APPROPRIATED ARE INSUFFICIENT.—In any fiscal year in which the sums appropriated for part A are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.

(e) ADDITIONAL RESERVATION.—In any fiscal year beginning after September 30, 1992, the Secretary shall award at least 25 percent of the amount appropriated pursuant to the authority of paragraph (3) of subsection (a) in each fiscal year to historically black colleges and universities that meet the requirements of part C, unless there are an insufficient number of quality applications or an insufficient number of applications due to the provisions in subsection (b)(2)(C) or subsection (b)(4)(B) of section 331.

(20 U.S.C. 1069f) Enacted October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1307; amended July 23, 1992, P.L. 102–325, sec. 305(e)–(g), 106 Stat. 479.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

SEC. 400. STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION.

(a) PURPOSE.—It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education by—

(1) providing basic educational opportunity grants to all eligible students;

(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) SECRETARY REQUIRED TO CARRY OUT PURPOSES.—The Secretary shall, in accordance with subparts 1 through 8, carry out programs to achieve the purposes of this part.

(20 U.S.C. 1070) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 247–248; amended June 23, 1972, P.L. 92–318, sec. 1001(c), 86 Stat. 381; amended October 3, 1980, P.L. 96–374, sec. 401, 1391, 94 Stat. 1401, 1503; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1308; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

SEC. 401. BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS.

(a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—(1) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1998, pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to subsection (b). Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students, except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Basic grants made under this subpart shall be known as "Federal Pell Grants".

(b) PURPOSE AND AMOUNT OF GRANTS.—(1) The purpose of this subpart is to provide a basic grant that in combination with reasonable family and student contribution and supplemented by the programs authorized under subparts 3 and 4 of this part, will meet at least 75 percent of a student's cost of attendance (as defined in section 472), unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

(2)(A) The amount of the basic grant for a student eligible under this part shall be—

(i) $3,700 for academic year 1993–1994,

(ii) $3,900 for academic year 1994–1995,

(iii) $4,100 for academic year 1995–1996,

(iv) $4,300 for academic year 1996–1997, and

(v) $4,500 for academic year 1997–1998,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

(B) In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 482 of this Act.

(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,400, the amount of a student's basic grant shall equal $2,400 plus—

(i) one-half of the amount by which such maximum basic grant exceeds $2,400; plus

(ii) the lesser of—

(I) the remaining one-half of such excess; or

(II) the sum of the student's tuition and the student's allowance determined under subparagraph (B), if applicable.

(B) For purposes of subparagraph (A)(ii)(II), a student's allowance is $750 if the student has dependent care expenses (as defined in section 472(8)) or disability related expenses (as defined in section 472(9)).

(4) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 472) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

(5) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than $400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400.

(6) The Secretary may allow, on a case-by-case basis, a student to receive 2 Pell grants during a single award year, if—

(A) the student is enrolled full-time in an associate or baccalaureate degree program of study that is 2 years or longer at an eligible institution that is computed in credit hours; and

(B) the student completes course work toward completion of an associate or baccalaureate degree that exceeds the requirements for a full academic year as defined by the institution.

(7) Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the basic grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such basic grant in any fiscal year shall not exceed the grant level specified in the appropriate Appropriation Act for this subpart for such year. If the preceding sentence applies, the financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution's cost, to determine the cost of attendance of the student.

(8)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.

(c) PERIOD OF ELIGIBILITY FOR GRANTS.—(1) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills. Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

(d) APPLICATIONS FOR GRANTS.—(1) The Secretary shall from time to time set dates by which students shall file applications for basic grants under this subpart.

(2) Each student desiring a basic grant for any year shall file an application therefor containing such information and assurances

as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

(f) CALCULATION OF ELIGIBILITY.—(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a basic grant under this subpart is attending), as a part of its regular output document, the expected family contribution for each such student. Each such student financial aid administrator shall—

(A) examine and assess the data used to calculate the expected family contribution of the student furnished pursuant to this subsection;

(B) recalculate the expected family contribution of the student if there has been a change in circumstances of the student or in the data submitted;

(C) make the award to the student in the correct amount; and

(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the expected family contribution for each such student.

(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986–1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the expected family contribution, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and Labor of the House of Representatives.

(g) INSUFFICIENT APPROPRIATIONS.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).

(h) USE OF EXCESS FUNDS.—(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

(i) TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS.—Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of Pell Grants shall not be considered to be individual grantees for purposes of subtitle D of title V of Public Law 100–690.

(20 U.S.C. 1070a) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 247–251; amended June 30, 1976, P.L. 94–328, sec. 2(f), 90 Stat. 727; amended October 12, 1976, P.L. 94–482, sec. 121, 90 Stat. 2091, 2092, 2093, 2094; amended June 15, 1977, P.L. 95–43, sec. 1(a)(5)(A), (a)(5)(B), 91 Stat. 213; amended November 1, 1978, P.L. 95–566, sec. 2, 92 Stat. 2402, 2403; amended October 3, 1980, P.L. 96–374, sec. 402, 1391, 94 Stat. 1401–1404, 1503; amended October 13, 1982, P.L. 97–301, sec. 8(a), 96 Stat. 1402; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1309; amended June 3, 1987, P.L. 100–50, sec. 3(a), 101 Stat. 337; amended July 23, 1992, P.L. 102–325, sec. 401, 106 Stat. 479; amended December 20, 1993, P.L. 103–208, sec. 2(b)(1)–(5), (k)(1), and (m), 107 Stat. 2457, 2485, 2486.

[Sections 411A through 411F were repealed by P.L. 102–325, sec. 401(i), 106 Stat. 482.]

Subpart 2—Federal Early Outreach and Student Services Programs

CHAPTER 1—FEDERAL TRIO PROGRAMS[1]

SEC. 402A. PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.

(a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

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[1] This was previously designated as subpart 4 of part 1 of title IV and was redesignated as chapter 1 by P.L. 102–325, sec. 402(a), 106 Stat. 482.

(b) RECIPIENTS, DURATION, AND SIZE.—

(1) RECIPIENTS.—For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, combinations of such institutions, agencies and organizations, and in exceptional circumstances, secondary schools, for planning, developing, or carrying out one or more of the services assisted under this chapter.

(2) DURATION.—Grants or contracts made under this chapter shall be awarded for a period of 4 years, except that—

(A) the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year; and

(B) grants made under section 402G shall be awarded for a period of 2 years.

(3) MINIMUM GRANT LEVEL.—In any year in which the appropriations authorized under this chapter exceed the prior year appropriation as adjusted for inflation, the Secretary shall use 80 percent of the amount appropriated above the current services level to bring each award up to the minimum grant level or the amount requested by the institution or agency, whichever is less. The minimum grant level (A) for programs authorized under section 402D or 402G, shall not be less than $170,000 for fiscal year 1993; (B) for programs authorized under section 402B or 402F shall not be less than $180,000 for fiscal year 1994; and (C) for programs authorized under section 402C or 402E shall not be less than $190,000 for fiscal year 1995.

(c) PROCEDURES FOR AWARDING GRANTS AND CONTRACTS.—

(1) PRIOR EXPERIENCE.—In making grants and contracts under this chapter, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant. For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985, except that in the case of the programs authorized in sections 402E and 402G, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this chapter.

(2) ORDER OF AWARDS; PROGRAM FRAUD.—(A) Except with respect to grants made under section 402G, and as provided in subparagraph (B), the Secretary shall award grants and contracts under this chapter in the order of the scores received by the application for such grant or contract in the peer review

process required under section 1210 and adjusted for prior experience in accordance with paragraph (1).

(B) The Secretary is not required to provide assistance to a program otherwise eligible for assistance under this chapter, if the Secretary has determined that such program has involved the fraudulent use of funds under this chapter.

(3) PEER REVIEW PROCESS.—(A) The Secretary shall assure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this chapter. The Secretary shall also assure that persons from urban and rural backgrounds are represented as readers.

(B) The Secretary shall ensure that each application submitted under this chapter is read by at least 3 readers who are not employees of the Federal Government (other than as readers of applications).

(4) APPLICATION STATUS.—The Secretary shall inform each entity operating programs under this chapter regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this chapter, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this subpart for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

(5) NUMBER OF APPLICATIONS FOR GRANTS AND CONTRACTS.—The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this chapter if the additional applications describe programs serving different populations or campuses.

(6) COORDINATION WITH OTHER PROGRAMS FOR DISADVANTAGED STUDENTS.—The Secretary shall encourage coordination of programs assisted under this chapter with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this chapter because such entity sponsors a program similar to the program to be assisted under this chapter, regardless of the funding source of such program. The Secretary shall not require a separate Director to administer a program funded under this chapter if the imposition of such requirement will hinder coordination among programs funded under this chapter or between programs funded under this subpart and similar programs funded through other sources.

(d) OUTREACH.—

(1) IN GENERAL.—The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this

chapter submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this chapter.

(2) NOTICE.—In carrying out the provisions of paragraph (1), the Secretary shall notify the entities described in subsection (b) of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this chapter and shall consult national, State, and regional organizations about candidates for notification.

(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical training to applicants for projects and programs authorized under this chapter. The Secretary shall give priority to serving programs and projects that serve geographic areas and eligible populations which have been underserved by the programs assisted under this chapter. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at not less than 10 sites throughout the United States to ensure that all areas of the United States with large concentrations of eligible participants are served.

(4) SPECIAL RULE.—The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

(e) DOCUMENTATION OF STATUS AS A LOW-INCOME INDIVIDUAL.—(1) Except in the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—

(A) a signed statement from the individual's parent or legal guardian;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(2) In the case of an independent student, as defined in section 480(d), documentation of an individual's status pursuant to subsection (g)(2) shall be made by providing the Secretary with—

(A) a signed statement from the individual;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this chapter, there are authorized to be appropriated $650,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years. Of the amount appropriated under this chapter, the Secretary may use no more than ½ of 1 percent of such amount to obtain additional qualified readers and additional staff to review applications, to increase the level of oversight monitoring, to support impact studies, program assessments and reviews, and to provide technical assistance to potential applicants and current grantees. In expending these funds, the Secretary shall give priority to the additional administrative requirements provided in the Higher Education Amendments of 1992, to outreach activities, and to obtaining additional readers. The Secretary shall report to Congress by October 1, 1994, on the use of these funds.

(g) DEFINITIONS.—For the purpose of this chapter:

(1) FIRST GENERATION COLLEGE STUDENT.—The term "first generation college student" means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

(2) LOW-INCOME INDIVIDUAL.—The term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(3) VETERAN ELIGIBILITY.—No veteran shall be deemed ineligible to participate in any program under this chapter by reason of such individual's age who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

(20 U.S.C. 1070a–11) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 258; amended October 12, 1976, P.L. 94–482, sec. 124(a), 90 Stat. 2094; amended October 3, 1980, P.L. 96–374, sec. 405, 94 Stat. 1407; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1336; amended July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 482; amended December 20, 1993, P.L. 103–208, sec. 2(b)(6)–(9), 107 Stat. 2458.

SEC. 402B. TALENT SEARCH.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

(b) PERMISSIBLE SERVICES.—Any talent search project assisted under this chapter may provide services such as—

(1) academic advice and assistance in secondary school and college course selection;

(2) assistance in completing college admission and financial aid applications;

(3) assistance in preparing for college entrance examinations;

(4) guidance on secondary school reentry or entry to general educational development (GED) programs or other alternative education programs for secondary school dropouts;

(5) personal and career counseling;

(6) tutorial services;

(7) exposure to college campuses as well as cultural events, academic programs and other sites or activities not usually available to disadvantaged youth;

(8) workshops and counseling for parents of students served;

(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for talent search projects under this chapter for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 402F;

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 402F; and

(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

(20 U.S.C. 1070a–12) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 258, 259; amended August 21, 1974, P.L. 93–380, sec. 833, 88 Stat. 602, 604; amended October 12, 1976, P.L. 94–482, sec. 124, 90 Stat. 2094, 2095, 2096; amended November 1, 1978, P.L. 95–566, sec. 4, 92 Stat. 2403; amended October 3, 1980, P.L. 96–374, sec. 405, 94 Stat. 1408; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1337; amended July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 486.

SEC. 402C. UPWARD BOUND.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond secondary school.

(b) PERMISSIBLE SERVICES.—Any upward bound project assisted under this chapter may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

(2) personal counseling;

(3) academic advice and assistance in secondary school course selection;

(4) tutorial services;

(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

(8) on-campus residential programs;

(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) REQUIRED SERVICES.—Any upward bound project assisted under this chapter which has received funding for two or more years shall include, as part of the core curriculum in the next and succeeding years, instruction in mathematics through precalculus, laboratory science, foreign language, composition, and literature.

(d) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for upward bound projects under this chapter for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or first generation college students;

(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school; and

(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

(e) MAXIMUM STIPENDS.—Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

(20 U.S.C. 1070a–13) Enacted October 3, 1980, P.L. 96–374, sec. 405, 94 Stat. 1409; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1338; amended July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 487; amended December 20, 1993, P.L. 103–208, sec. 2(b)(10), 107 Stat. 2459.

SEC. 402D. STUDENT SUPPORT SERVICES.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as student support services which shall be designed—

(1) to increase college retention and graduation rates for eligible students;

(2) to increase the transfer rates of eligible students from 2-year to 4-year institutions; and

(3) to foster an institutional climate supportive of the success of low-income and first generation college students and individuals with disabilities.

(b) PERMISSIBLE SERVICES.—A student support services project assisted under this chapter may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

(2) personal counseling;

(3) academic advice and assistance in course selection;

(4) tutorial services and counseling and peer counseling;

(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

(6) activities designed to acquaint students participating in the project with the range of career options available to them;

(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education;

(9) mentoring programs involving faculty or upper class students, or a combination thereof; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for student support services projects under this chapter for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be individuals with disabilities; or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or individuals with disabilities;

(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;

(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

(6) require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will be offered sufficient financial assistance to meet that student's full financial need.

(20 U.S.C. 1070a–14) Enacted October 3, 1980, P.L. 95–374, sec. 405, 94 Stat. 1410; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1339; amended July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 488; amended December 20, 1993, P.L. 103–208, sec. 2(b)(11), 107 Stat. 2459.

SEC. 402E. POSTBACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as the "Ronald E. McNair Postbaccalaureate Achievement Program" that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

(b) SERVICES.—A postbaccalaureate achievement project assisted under this section may provide services such as—

(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

(2) summer internships;

(3) seminars and other educational activities designed to prepare students for doctoral study;

(4) tutoring;

(5) academic counseling;

(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs;

(7) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

(8) exposure to cultural events and academic programs not usually available to disadvantaged students.

(c) REQUIREMENTS.—In approving applications for postbaccalaureate achievement projects assisted under this section for any fiscal year, the Secretary shall require—

(1) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

(3) an assurance that participants be enrolled in a degree program at an eligible institution having an agreement with

the Secretary in accordance with the provisions of section 487; and

(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

(d) AWARD CONSIDERATIONS.—In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

(1) the quality of research and other scholarly activities in which students will be involved;

(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

(e) MAXIMUM STIPENDS.—Students participating in research under a postbaccalaureate achievement project may receive an award that—

(1) shall include a stipend not to exceed $2,400 per annum; and

(2) may include, in addition, the costs of summer tuition, summer room and board, and transportation to summer programs.

(f) FUNDING.—From amounts appropriated pursuant to the authority of section 402A(f), the Secretary shall, to the extent practicable, allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 1993 through 1997.

(20 U.S.C. 1070a–15) Enacted October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1339; amended June 3, 1987, P.L. 100–50, sec. 6, 101 Stat. 340; amended Aug. 23, 1988, P.L. 100–418, sec. 6271, 102 Stat. 1523; amended July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 489.

SEC. 402F. EDUCATIONAL OPPORTUNITY CENTERS.

(a) PROGRAM AUTHORITY; SERVICES PROVIDED.—The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

(b) PERMISSIBLE SERVICES.—An educational opportunity center assisted under this section may provide services such as—

(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

(2) academic advice and assistance in course selection;

(3) assistance in completing college admission and financial aid applications;

(4) assistance in preparing for college entrance examinations;

(5) guidance on secondary school reentry or entry to a general educational development (GED) program or other alternative education programs for secondary school dropouts;

(6) personal counseling;

(7) tutorial services;

(8) career workshops and counseling;

(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for educational opportunity centers under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 402B; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 402B.

(20 U.S.C. 1070a–16) Enacted October 3, 1980, P.L. 96–374, sec. 405, 94 Stat. 1410; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1340; amended July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 490.

SEC. 402G. STAFF DEVELOPMENT ACTIVITIES.

(a) SECRETARY'S AUTHORITY.—For the purpose of improving the operation of the programs and projects authorized by this chapter, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects.

(b) CONTENTS OF TRAINING PROGRAMS.—Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this chapter as well as annually on the following topics and other topics chosen by the Secretary:

(1) Legislative and regulatory requirements for the operation of programs funded under this chapter.

(2) Assisting students in receiving adequate financial aid from programs assisted under this title and other programs.

(3) The design and operation of model programs for projects funded under this chapter.

(c) CONSULTATION.—Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

(20 U.S.C. 1070a–17) Enacted October 3, 1980, P.L. 96–374, sec. 405, 94 Stat. 1411; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1341; amended July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 491.

SEC. 402H. EVALUATION FOR PROJECT IMPROVEMENT.

(a) IN GENERAL.—For the purpose of improving the operation of the programs and projects assisted under this chapter, the Secretary is authorized to make grants to and enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the various programs assisted under this subpart in meeting the purposes described in this chapter.

(b) CONTENT.—The evaluations described in subsection (a) shall identify institutional, community and program practices particularly effective in increasing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of such individuals and students for postsecondary education, and such individuals' and students' success in postsecondary education.

(c) RESULTS.—In order to improve program effectiveness, the results of the ongoing evaluations described in subsection (a) shall be disseminated by the Secretary to similar programs assisted under this chapter as well as other individuals concerned with the postsecondary access and retention of low-income individuals and first-generation college students.

(20 U.S.C. 1070a–18) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 491.

CHAPTER 2—NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM

SEC. 404A. EARLY INTERVENTION PROGRAM AUTHORIZED.

The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that—

(1) encourages States to provide or maintain a guarantee to eligible low-income students who obtain a high school diploma (or its equivalent), of the financial assistance necessary to permit them to attend an institution of higher education; and

(2) provides incentives to States, in cooperation with local educational agencies, institutions of higher education, community organizations and business, to provide—

(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school; and

(B) information to students and their parents about the advantages of obtaining a postsecondary education and their college financing options.

(20 U.S.C. 1070a–21) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 492; amended December 20, 1993, P.L. 103–208, sec. 2(b)(12), 107 Stat. 2459.

SEC. 404B. STATE ELIGIBILITY AND STATE PLAN.

(a) PLAN REQUIRED FOR ELIGIBILITY.—(1) In order for a State to qualify for a grant under this chapter, the State shall submit to the Secretary a plan for carrying out the program under this chapter. Such plan shall provide for the conduct, under the State program, of both a scholarship component in accordance with section 404D and an early intervention component in accordance with section 404C.

(2) Each State plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation and shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this section.

(b) MATCHING REQUIREMENT.—The Secretary shall not approve a plan submitted under subsection (a) unless such plan—

(1) provides that the State will provide, from State, local, or private funds, not less than one-half the cost of the program;

(2) specifies the methods by which such share of the costs will be paid; and

(3) includes provisions designed to assure that funds provided under this chapter shall supplement and not supplant funds expended for existing State and local programs.

(c) METHODS FOR COMPLYING WITH MATCHING REQUIREMENT.—A State may count toward the contribution required by subsection (b)(1)—

(1) the amount of the grants paid to students from State, local, or private funds under this chapter;

(2) the amount of tuition, fees, room or board waived or reduced for recipients of grants under this chapter; and

(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

(d) PAYMENT REQUIREMENTS.—Upon submission by a State of such documents as the Secretary may, by regulation, require for demonstrating the total amount expended by the State in accordance with this chapter for a fiscal year, the Secretary shall, from such State's allotment under section 404E for such fiscal year, pay to such State an amount equal to not more than one-half of the total amount so expended.

(20 U.S.C. 1070a–22) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 492; amended December 20, 1993, P.L. 103–208, sec. 2(b)(13) and (14), 107 Stat. 2459.

SEC. 404C. EARLY INTERVENTION.

(a) IN GENERAL.—In order to receive payments under section 404B(d), a State shall demonstrate to the satisfaction of the Secretary that the State will provide comprehensive mentoring, counseling, outreach, and supportive services to students participating in programs under this chapter who are enrolled in preschool through grade 12. Such counseling shall include financial aid counseling that provides information on the opportunities for financial assistance under this title. The State shall demonstrate, pursuant to regulations of the Secretary, the methods by which the State will target services on priority students.

(b) USES OF FUNDS.—

(1) IN GENERAL.—The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be used to meet the requirements of subsection (a).

(2) ALLOWABLE PROVIDERS.—The activities required by subsection (a) may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4 of this part, and other organizations the Secretary deems appropriate.

(3) PERMISSIBLE ACTIVITIES.—Examples of acceptable activities to meet the requirements of subsection (a) include the following:

(A) Providing eligible students in preschool through grade 12 with a continuing system of mentoring and advising that—

(i) is coordinated with the Federal and State community service initiatives; and

(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring and academic counseling.

(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress as described in section 484(c), in exchange for receiving tuition assistance for a period of time to be established by each State.

(C) Activities designed to ensure high school completion and college enrollment of at-risk children, including identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement and former or current scholarship recipients as mentor or peer counselors, skills assessment, personal counseling, family counseling and home visits, and staff development, and programs and activities as described in this subparagraph which are specially designed for students of limited English proficiency.

(D) Prefreshman summer programs that—

(i) are at institutions of higher education that also have programs of academic year supportive services for disadvantaged students through projects authorized under section 402D or through comparable projects funded by the State or other sources;

(ii) assure the participation of students who qualify as disadvantaged under the provisions of section 402D or who are eligible for comparable programs funded by the State;

(iii)(I) provide summer instruction in remedial, developmental or supportive courses; (II) provide such summer services as counseling, tutoring, or orientation; and (III) provide grant aid to students to cover prefreshman summer costs for books, supplies, living costs and personal expenses; and

(iv) assure that participating students will receive financial aid during each academic year they are enrolled at the participating institution after the prefreshman summer.

(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

(c) PRIORITY STUDENTS.—In administering the early intervention component, the State shall treat as priority students any student in preschool through grade 12 who is eligible—

(1) to be counted under section 1005(c) of the Elementary and Secondary Education Act of 1965;

(2) for free or reduced price meals pursuant to the National School Lunch Act; or

(3) for assistance pursuant to part A of title IV of the Social Security Act (Aid to Families with Dependent Children).

(20 U.S.C. 1070a–23) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 493; amended December 20, 1993, P.L. 103–208, sec. 2(b)(15)–(17), 107 Stat. 2459.

SEC. 404D. SCHOLARSHIP COMPONENT.

(a) IN GENERAL.—In order to receive payments under section 404B(d), a State shall establish or maintain a financial assistance program that awards grants to students in accordance with the requirements of this section. The Secretary shall encourage the State to ensure that the tuition assistance provided pursuant to this section is available to an eligible student for use at any eligible institution.

(b) GRANT AMOUNTS.—The maximum amount of the grant that an eligible student in any participating State shall be eligible to receive under this section shall be established by the State. The minimum amount of the grant for each fiscal year shall not be less than the lesser of—

(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

(2) the maximum grant funded under section 401 for such fiscal year.

(c) RELATION TO OTHER ASSISTANCE.—Tuition assistance provided under this chapter shall not be considered for the purpose of awarding Federal grant assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student's total cost of attendance.

(d) ELIGIBLE STUDENTS.—A student eligible for assistance under this chapter is a student who—

(1) is less than 22 years old at time of first grant award;

(2) receives a high school diploma or a certificate of high school equivalence on or after January 1, 1993;

(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries; except that, as a State option, a State may offer grant program portability for recipients who attend institutions of higher education outside such State; and

(4) who participated in the State early intervention component required under section 404C.

(e) PRIORITY; WAIVER.—(1) The Secretary shall ensure that each State place a priority on awarding scholarships to students who will receive a Pell Grant for the academic year for which the award is being made under this chapter.

(2) A State may consider students who have successfully participated in programs funded under chapter 1 of this subpart to have met the requirements of subsection (d)(4).

(20 U.S.C. 1070a–24) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 495; amended December 20, 1993, P.L. 103–208, sec. 2(b)(18) and (19), 107 Stat. 2459.

SEC. 404E. DISTRIBUTION OF FUNDS.

(a) COMPETITIVE AWARDS.—If the amount appropriated to carry out this chapter for a fiscal year is less than $50,000,000, then the Secretary shall award grants under this chapter on a competitive basis to States to carry out a program described in section 404A.

(b) ALLOTMENT BASED ON TITLE I ESEA ALLOCATIONS.—If the amount appropriated to carry out this chapter for a fiscal year is $50,000,000 or more, then the Secretary shall allot to each State an amount which bears the same ratio to such sums as—

(1) the amount allocated under section 1005 of the Elementary and Secondary Education Act of 1965 to the local education agencies in the State,

bears to—

(2) the total amount allocated under such section to all such agencies in all States.

(c) LIMIT ON USE.—No State may use less than 25 percent or more than 50 percent of its allotment for the early intervention component of the State program, except that the Secretary may waive the 50 percent limitation if the State demonstrates that the State has another means of providing the student's financial assistance that is described in the State plan.

(d) REALLOTMENT.—The amount of any State's allotment under subsection (b) for any fiscal year which the Secretary determines will not be required for such fiscal year for the program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out such programs. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. A State shall match, in accordance with section 404B(b) any reallocated funds it receives under this subsection.

(e) ALLOTMENT SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for programs only to States which continue to meet the requirements of the State plan pursuant to section 404B.

(20 U.S.C. 1070a–25) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 495; amended December 20, 1993, P.L. 103–208, sec. 2(b)(20), 107 Stat. 2459.

SEC. 404F. EVALUATION AND REPORT.

(a) EVALUATION.—Each State receiving an allotment under this chapter shall biennially evaluate the early intervention program assisted under this chapter in accordance with the standards described in subsection (b) and shall submit to the Secretary a copy of such evaluation. The evaluation component shall permit service providers to track eligible student progress during the period such students are participating in the program assisted under this section and must be consistent with the standards developed by the Secretary pursuant to subsection (b).

(b) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in subsection (a). Such standards shall—

(1) provide for input from States and service providers; and

(2) ensure that data protocols and procedures are consistent and uniform.

(c) REPORT.—The Secretary shall biennially report to the Congress on the activities assisted under this chapter and the evaluations conducted pursuant to subsection (a).

(20 U.S.C. 1070a–26) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 496; amended December 20, 1993, P.L. 103–208, sec. 2(b)(21) and (22), 107 Stat. 2459.

SEC. 404G. APPROPRIATIONS.

There is authorized to be appropriated to make grants under this chapter $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the four succeeding fiscal years. For any fiscal year for which funds are authorized to be appropriated to carry out subpart 4 of part A of this title, no amount may be expended to carry out the provisions of this chapter unless the amount appropriated for such fiscal year to carry out such subpart 4 exceed $60,000,000.

(20 U.S.C. 1070a–27) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 496; amended December 20, 1993, P.L. 103–208, sec. 2(b)(23), 107 Stat. 2459.

CHAPTER 3—PRESIDENTIAL ACCESS SCHOLARSHIPS

SEC. 406A. SCHOLARSHIPS AUTHORIZED.

The Secretary is authorized in accordance with this chapter to award Presidential Access Scholarships to students who—

(1) are eligible to receive a Pell Grant for the year in which the scholarship is awarded;

(2) have participated in a preparatory program for postsecondary education; and

(3) demonstrate academic achievement.

(20 U.S.C. 1070a–31) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 497.

SEC. 406B. SCHOLARSHIP PROGRAM REQUIREMENTS.

(a) AMOUNT OF AWARD.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amount of a scholarship awarded under this chapter for any academic year shall be equal to 25 percent of the Pell Grant that the recipient is awarded for that year or $400, whichever is greater.

(2) ADJUSTMENT FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section 406C, funds available in a fiscal year are insufficient to fully fund all awards for that academic year under this chapter, the amount paid to each student shall be reduced proportionately.

(b) PERIOD OF AWARD.—Scholarships under this chapter shall be awarded for a period of not more than four academic years, or in the case of a student who is enrolled in an undergraduate course of study that requires attendance for the full-time equivalent of five academic years, five academic years.

(c) USE AT ANY INSTITUTION PERMITTED.—An eligible student awarded a scholarship under this chapter may use such scholarship stipend to attend any institution of higher education.

(d) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—A scholarship awarded under this chapter to any student, in combination with the Pell Grant and other student financial assistance available to such student, may not exceed the student's cost of attendance (as defined in section 472).

(e) PRESIDENTIAL ACCESS SCHOLARS.—Students awarded scholarships under this chapter shall be known as "Presidential Access Scholars".

(20 U.S.C. 1070a–32) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 497.

SEC. 406C. ELIGIBILITY OF SCHOLARS.

(a) REQUIREMENTS FOR STUDENTS IN FIRST YEAR OF POSTSECONDARY EDUCATION.—In order for a student who will be attending the student's first year of postsecondary education to be eligible to receive a scholarship under this chapter for that academic year, the student shall—

(1) be enrolled or accepted for enrollment in a degree or certificate program of at least 2 years in length;

(2) have demonstrated academic achievement and preparation for postsecondary education by taking college preparatory level coursework in the following areas while in secondary school or the equivalent:

(A) 4 years of English;

(B) 3 years of science;

(C) 3 years of mathematics;

(D) either—

(i) 3 years of history; or

(ii) 2 years of history and 1 year of social studies; and

(E) either—

(i) 2 years of a foreign language; or

(ii) 1 year of computer science and 1 year of a foreign language.

(3) earn a grade point average of 2.5 or higher, on a scale of 4.0, in the final 2 years of high school; and

(4) either—

(A) have participated, for a minimum period of 36 months, in an early intervention program that meets the requirements of section 406D; or

(B) rank, or have ranked, in the top 10 percent, by grade point average, of the student's secondary school graduating class.

(b) Requirements for All Students.—

(1) Each eligible student desiring a scholarship under this chapter shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) In order for a student who will be attending a year of postsecondary education, other than the student's first year, to continue to be eligible to receive a scholarship under this chapter for that academic year the eligible student shall maintain eligibility to receive a Pell Grant, including fulfilling the requirements for satisfactory academic progress as described in section 484(c).

(20 U.S.C. 1070a–33) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 497.

SEC. 406D. ELIGIBLE EARLY INTERVENTION PROGRAMS.

(a) Participation in TRIO Programs and National Early Intervention Scholarship and Partnership Programs.—Participation in a program authorized under section 402B, 402C, or 402F, or chapter 2 of subpart 2 of this part for a 36-month period shall meet the requirement of section 406C(a)(4)(A).

(b) Other Eligible Early Intervention Program.—Participation in another early intervention program, regardless of sponsorship, for a 36-month period, shall meet the requirements of section 406C(a)(4)(A) if the program—

(1) meets the requirements established by the Secretary; and

(2) is certified by the Governor as an honors scholars program.

(20 U.S.C. 1070a–34) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 498.

SEC. 406E. STUDENT ELIGIBILITY.

(a) STUDENT ELIGIBILITY.—For the purpose of this chapter, the term "eligible student" means an individual who—

(1) is a graduate of a public or private secondary school or has the equivalent certificate of graduation as recognized by the State in which the eligible student resides;

(2) not later than 3 years after such individual graduates or obtains an equivalent certificate, has been admitted for enrollment or is enrolled at an institution of higher education; and

(3) is eligible to receive a Pell Grant for the year in which the scholarship is awarded.

(b) LIMITATION.—For the purpose of this chapter, the term "eligible student" does not include an individual who has been awarded a baccalaureate degree.

(c) WAIVERS.—

(1) EARLY INTERVENTION PROGRAM PARTICIPATION.—The Secretary may waive the requirement described in section 406C(a)(4) for any student who was unable to participate in an early intervention program assisted under this part because such program was not available in the area in which such student resides or the student was unable to participate in an early intervention program where the student resides.

(2) LIMITED-ENGLISH PROFICIENT STUDENTS.—The Secretary may waive the requirement described in section 406C(a)(2)(E) for any limited-English proficient student who is fluent in a language other than English and is participating in a program to teach such student the English language or for any English speaking student fluent in a second language.

(20 U.S.C. 1070a–35) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 498.

SEC. 406F. EARLY INTERVENTION SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—In order for a student to receive a scholarship under this chapter, the State educational agency serving the State in which such child resides shall have entered into an agreement with the Secretary.

(b) CONTENTS.—Each agreement described in subsection (a) shall include provisions designed to ensure that—

(1) all secondary school students in the State have equal and easy access to the coursework described in section 406C(a)(2);

(2) the State educational agency has procedures in place to verify to the Secretary that students receiving scholarships under this chapter have taken such coursework and that such coursework has been of a college preparatory level, including a requirement that all secondary schools in the State issue a certificate to each eligible student certifying that such student has completed the necessary coursework to qualify for a scholarship under this chapter;

(3) the State educational agency has procedures in place to notify institutions of higher education of the availability of

scholarships under this chapter, so that such institutions may award additional scholarships in concert with the scholarships received under this chapter; and

(4) the State educational agency has procedures in place to inform junior high school students and their families about the value of postsecondary education, the availability of student aid to meet college expenses, and the availability of scholarships under this chapter for students who take demanding courses, with particular emphasis on activities designed to ensure that students from low- and moderate-income families have access to such information.

(c) SPECIAL RULE.—The Secretary may allow a State to receive assistance under this chapter for students whose secondary schools do not offer the necessary coursework if such students take the required courses at another local secondary school or community college.

(20 U.S.C. 1070a–36) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 499.

SEC. 406G. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this chapter. No amount may be expended to carry out the provisions of this chapter in any fiscal year unless the amount appropriated for such fiscal year to carry out subpart 1 of part A of this title exceeds the amount appropriated to carry out such subpart in the preceding fiscal year.

(20 U.S.C. 1070a–37) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 499.

CHAPTER 4—MODEL PROGRAM COMMUNITY PARTNERSHIP AND COUNSELING GRANTS

SEC. 408A. MODEL PROGRAM GRANTS.

(a) PROGRAM AUTHORITY.—From the amounts appropriated under section 408C, the Secretary shall award grants to develop model programs—

(1) to counsel students, at an early age, about college opportunities, precollege requirements, the college admissions procedure, financial aid opportunities, and student support services that are specially designed or customized for use in specific geographic, social, and cultural environments; or

(2) which stimulate community partnerships with schools by providing tutoring, mentoring, work experiences, and other services which support making postsecondary education a realistic goal for all students.

(b) PRIORITIES IN SELECTION.—The Secretary shall give priority to those model programs which are directed at areas which have a high proportion of minority, limited English proficiency, economically disadvantaged, disabled, nontraditional, or at-risk students and those model programs which serve these students from rural or urban environments.

(c) PROPOSAL REQUIREMENTS.—

(1) TAILORING.—To receive a grant under subsection (a)(1), the proposal submitted to the Secretary shall demonstrate that the counseling on college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities (including early intervention counseling), is tailored to a specific geographic, social or cultural environment.

(2) COMMUNITY PARTNERSHIPS.—To receive a grant under subsection (a)(2), the proposal submitted to the Secretary shall demonstrate the active involvement of a local educational agency and at least one of the following:

(A) Local businesses.
(B) Labor organizations.
(C) Community groups.

(3) GOALS AND OUTCOMES.—To receive a grant under this section, each proposal shall contain a statement of specific, measurable goals and methods for obtaining statistics on the number of participants who continue on to postsecondary education.

(20 U.S.C. 1070a–41) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 500.

SEC. 408B. DIFFUSION ACTIVITIES.

(a) COLLECTION OF INFORMATION.—The Secretary shall collect information concerning—

(1) programs supported under section 408A and programs of demonstrated effectiveness which counsel students about college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities;

(2) early intervention programs of demonstrated effectiveness which set students on the path toward staying in school and pursuing a postsecondary education;

(3) model programs which counsel students in specific environments, such as urban, rural, and suburban; and

(4) model programs which develop school/community partnerships to provide mentoring, tutoring, work experiences and other services which support making postsecondary education a realistic goal for all students.

(b) DISSEMINATION.—The Secretary shall ensure that the information collected under subsection (a) is disseminated.

(20 U.S.C. 1070a–42) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 500.

SEC. 408C. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this chapter.

(20 U.S.C. 1070a–43) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 501.

CHAPTER 5—PUBLIC INFORMATION

SEC. 409A. DATABASE AND INFORMATION LINE.

From the funds available under section 409C, the Secretary shall award a contract to establish and maintain—

(1) a computerized database of all public and private student financial assistance programs, to be accessible to schools and libraries through either modems or toll-free telephone lines; and

(2) a toll-free information line, including access by telecommunications devices for the deaf ("TDD's"), to provide individualized financial assistance information to parents, students, and other individuals, including individuals with disabilities, and to refer students with disabilities and their families to the postsecondary clearinghouse that is authorized under section 633(c) of the Individuals with Disabilities Education Act.

(20 U.S.C. 1070a–51) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 501; amended December 20, 1993, P.L. 103–208, sec. 2(b)(24), 107 Stat. 2459.

SEC. 409B. EARLY AWARENESS INFORMATION PROGRAM.

(a) PROGRAM AUTHORITY.—The Secretary is authorized to enter into contracts with appropriate public agencies, nonprofit private organizations, and institutions of higher education to conduct an information program designed—

(1) to broaden the early awareness of postsecondary educational opportunities by secondary school students and their parents; and

(2) to encourage economically disadvantaged, minority, or at-risk individuals to seek higher education, and to seek higher education and financial assistance counseling at public schools and libraries.

(b) CONTENTS OF MESSAGES.—Announcements and messages supported under this section—

(1) may be specially designed for students of limited English proficiency,

(2) shall publicize—

(A) the availability of Federal student assistance under this Act;

(B) the importance of postsecondary education in long-term career planning; and

(C) the need and necessity to complete a secondary education program successfully in order to meet the requirements for college.

(c) INFORMING CONGRESS.—The Secretary shall keep the appropriate committees of the Congress informed with respect to the efforts made pursuant to this section and shall recommend any additional legislative authority that will serve the purposes of this section.

(20 U.S.C. 1070a–52) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 501.

SEC. 409C. DATABASE AND INFORMATION LINE.

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this chapter.

(20 U.S.C. 1070a–53) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 502.

CHAPTER 6—NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM

SEC. 410A. NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM.

(a) Statement of Purpose.—It is the purpose of this section to—

(1) create a demonstration program to test the feasibility of establishing a national student savings program to encourage families to save for their children's college education and thereby reduce the loan indebtedness of college students; and

(2) help determine the most effective means of achieving the activities described in paragraph (1).

(b) Demonstration Program Authorized.—

(1) In general.—The Secretary is authorized to award a demonstration grant to not more than 5 States to enable each such State to conduct a student savings program in accordance with this section.

(2) Amount of grant.—The amount of each grant awarded pursuant to paragraph (1) shall be computed on the basis of—

(A) a Federal match in an amount equal to the initial State deposit into each account established pursuant to subsection (c)(2)(B), except that such Federal match shall not exceed $50 per child; multiplied by

(B) the number of children participating in the program assisted under this part.

(3) Priority.—In awarding grants under this section the Secretary shall give priority to States proposing programs that establish accounts for a child prior to the age of compulsory school attendance in the State in which such child resides.

(4) Special consideration.—In awarding grants under this section the Secretary shall give special consideration to States—

(A) that permit employers to use pretax income in making contributions to a child's account; and

(B) that provide assurances that interest earned in accounts shall be exempt from State taxes.

(c) Application.—

(1) In general.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Contents.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the student savings program to be established and the number of children to be served;

(B) contain assurances that an account shall be established for each child participating in the program assisted under this section and set forth the initial amount to be deposited into each such account by the State;

(C) contain assurances that deposits into such account shall be invested in a responsible manner that provides a reasonable rate of return;

(D) contain assurances that funds in the account shall only be used to pay the cost of attendance (as such term is defined in section 472) at any eligible institution (as such term is defined in section 481);

(E) describe the amount of the Federal contribution requested for starting each child's account, which shall not exceed $50 per child participating in the program;

(F) describe the age at which children in the State may establish such accounts;

(G) indicate whether the program will be open to all children, regardless of family income, or only to disadvantaged children;

(H) describe how additional deposits into each account from the State or other resources will be earned by a child for performance of community service, academic performance, or other activities or achievements;

(I) contain assurances that contributions in an account shall be refundable to the contributor without interest if the child is unable to attend college;

(J) contain assurances that the State shall encourage individuals and organizations to make contributions to a child's account;

(K) contain assurances that the State shall provide incentives to employers to make contributions to a child's account and participate in the program assisted under this section; and

(L) contain assurances that if a child leaves the State in which such child has an account, then such child shall retain the right to make contributions to the account, except that the State shall not be required to make any additional deposits other than interest.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

(20 U.S.C. 1070a–61) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 502.

CHAPTER 7—PREELIGIBILITY FORM[1]

SEC. 410B. INFORMATION ON ELIGIBILITY FOR ASSISTANCE.

To help ensure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary, as part of the contracts developed pursuant to section 483, may—

(1) develop and process a common preeligibility Federal financial aid form,

(2) distribute and process such form on a year-round basis free of charge to students and parents, and

(3) issue, on the basis of information reported by the student on such form, a preeligibility expected family contribution

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[1] This section was previously designated as section 483(d) and was redesignated as chapter 7 by P.L. 102–325.

figure and estimate of the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under section 483.

The Secretary shall widely disseminate the preeligibility form through post offices and other appropriate Federal installations, schools, institutions of higher education, libraries, and community-based agencies, including projects assisted under subparts 2 and 5 of this part.

(20 U.S.C. 1070a–71) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 503.

CHAPTER 8—TECHNICAL ASSISTANCE FOR TEACHERS AND COUNSELORS

SEC. 410C. TECHNICAL ASSISTANCE GRANTS.

(a) PROGRAM AUTHORITY.—From the amounts appropriated under subsection (f), the Secretary shall award grants to local educational agencies to use for the purpose of obtaining specialized training for guidance counselors, teachers, and principals to counsel students about college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities.

(b) SELECTION OF GRANT RECIPIENTS.—

(1) PRIORITY.—In making grants under this section, the Secretary shall give priority to those local educational agencies serving school districts (A) from which the proportion of students who continue on to higher education is significantly below the national average, and (B) in which the proportion of students who are educationally disadvantaged is significantly above the national average.

(2) SELECTION PROCEDURES.—The Secretary shall develop a formal procedure for the submission of proposals and publish in the Federal Register an announcement with respect to that procedure and the availability of funds.

(c) LOCAL PLAN.—To receive a grant under this section, a local educational agency shall submit to the Secretary a plan that—

(1) specifies the methods to be used for outreach, implementation, and follow-up with those students most in need and at-risk for dropping out or failing to pursue postsecondary education;

(2) demonstrates the methods by which the agency will target funds to those schools within the district that have the lowest rate of students who continue on to higher education;

(3) utilizes early intervention programs for counseling minority, economically disadvantaged, disabled, and at-risk students about postsecondary education;

(4) includes a strategy for keeping the guidance counselors, teachers (including elementary, secondary, vocational, and special education teachers), and principals who have been trained up-to-date on financial aid information;

(5) contains a statement of specific goals and methods for obtaining statistics on the number of participants who continue on to postsecondary education; and

(6) contains a description of the costs of the training and other activities to be undertaken.

(d) DURATION OF GRANTS.—Grants under this section shall be available for 2 years.

(e) EVALUATION.—

(1) CONDUCT OF EVALUATIONS.—The Secretary shall reserve not more than 2 percent of any amount appropriated under subsection (f) for the purpose of carrying out an independent evaluation of the effectiveness of the training programs assisted under this section in—

(A) increasing the number of personnel in a school who regularly counsel students regarding college opportunities, precollege requirements, the college admission procedure, and financial aid opportunities; and

(B) increasing the number of students who continue on to postsecondary education from a school which has had personnel trained using monies from this section.

(2) REPORT.—The Secretary shall submit to the appropriate committees of the Congress a report which contains the findings of the evaluation required by paragraph (1).

(f) TECHNICAL ASSISTANCE GRANTS.—There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

(20 U.S.C. 1070a–81) Enacted July 23, 1992, P.L. 102–325, sec. 402(a)(4), 106 Stat. 504.

SUBPART 3—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

SEC. 413A. PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part F of this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a), for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $675,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which such sums were appropriated.

(20 U.S.C. 1070b) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 251, 252; amended October 12, 1976, P.L. 94–482, sec. 122(a), 90 Stat. 2094; amended October 3, 1980, P.L. 96–374, sec. 403, 1391, 94 Stat. 1404, 1405, 1503; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1328; amended July 23, 1992, P.L. 102–325, sec. 403(b), 106 Stat. 505; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 413B. AMOUNT AND DURATION OF GRANTS.

(a) AMOUNT OF GRANT.—(1) Except as provided in paragraph (3), from the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part F of this title, to be needed by that student to enable the student to pursue a course of study at the institution or in a program of study abroad that is approved for credit by the institution at which the student is enrolled, or (B) $4,000.

(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution.

(b) PERIOD FOR RECEIPT OF GRANTS; CONTINUING ELIGIBILITY.—(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).

(c) DISTRIBUTION OF GRANT DURING ACADEMIC YEAR.—Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

(20 U.S.C. 1070b–1) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 252, 253; amended October 3, 1980, P.L. 96–374, sec. 403, 94 Stat. 1405; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1328; amended July 23, 1992, P.L. 102–325, sec. 403(c), 106 Stat. 505; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 413C. AGREEMENTS WITH INSTITUTIONS; SELECTION OF RECIPIENTS.

(a) INSTITUTIONAL ELIGIBILITY.—Assistance may be made available under this subpart only to an institution which—

(1) has, in accordance with section 487, an agreement with the Secretary applicable to this subpart;

(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

(A) institutional grants and scholarships;
(B) tuition or fee waivers;
(C) State scholarships; and
(D) foundation or other charitable organization funds.

(b) ELIGIBILITY FOR SELECTION.—Awards may be made under this subpart only to a student who—

(1) is an eligible student under section 484; and

(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

(c) SELECTION OF INDIVIDUALS AND DETERMINATION OF AMOUNT OF AWARDS.—(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D, select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 484.

(B) For the purpose of subparagraph (A), the term "students with exceptional need" means students with the lowest expected family contributions at the institution.

(d) USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.—If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students, except that[1] if the total financial need of all such students attending the institution exceeds 5 percent of the need[1] of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students.

(e) USE AND TRANSFER OF FUNDS FOR ADMINISTRATIVE EXPENSES.—An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 489 of this title.

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[1] Effective July 1, 1994, section 2(b)(25)(A) of the Higher Education Technical Amendments of 1993 amends this subsection by striking ", a reasonable proportion of the institution's allocation shall be made available to such students, except that" and inserting "and". Effective July 1, 1994, section 2(b)(25)(B) of such Act also amends this subsection by striking "5 percent of the need" and inserting "5 percent of the total financial need".

(20 U.S.C. 1070b–2) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 253, 254; amended October 12, 1976, P.L. 94–482, sec. 122(b), 90 Stat. 2094; amended October 3, 1980, P.L. 96–374, sec. 403(d), 94 Stat. 1405; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1329; amended July 23, 1992, P.L. 102–325, sec. 403(d)–(f), 106 Stat. 506; amended December 20, 1993, P.L. 103–208, sec. 2(b)(25), (m), 107 Stat. 2459, 2486.

SEC. 413D. ALLOCATION OF FUNDS.

(a) Allocation Based on Previous Allocation.—(1) From the amount appropriated pursuant to section 413A(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received and used under this subpart for fiscal year 1985.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate from or transfer to a 4-year institution of higher education.

(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 413A(b) for any fiscal year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) bears to the amount all such institutions receive under such subsection (a).

(c) ALLOCATION OF EXCESS BASED ON FAIR SHARE.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 413A(b) for each year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (d)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 413A(b) of the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a).

(d) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to—

(A) the sum of the need of the institution's eligible undergraduate students; minus

(B) the sum of grant aid received by students under subparts 1 and 3 of this part.

(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 75 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3)(A) For purposes of paragraph (2), the term "average cost of attendance" means the average of the attendance costs for undergraduate students which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(e) REALLOCATION OF EXCESS ALLOCATIONS.—(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(f) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(20 U.S.C. 1070b–3) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 254, 255; amended October 3, 1980, P.L. 96–374, sec. 403, 1351, 94 Stat. 1405, 1503; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1330; amended June 3, 1987, P.L. 100–50, sec. 4, 101 Stat. 340; amended July 23, 1992, P.L. 102–325, sec. 403(g), 106 Stat. 506; amended December 20, 1993, P.L. 103–208, sec. 2(b)(26), (m), 107 Stat. 2459, 2486.

SUBPART 4—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

SEC. 415A. PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to States to assist States in providing grants to—

(1) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

(2) eligible students for campus-based community service work-study.

(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—

(1) IN GENERAL.—There are authorized to be appropriated $105,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) AVAILABILITY.—Sums appropriated pursuant to the authority of paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(20 U.S.C. 1070c) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 255, 256; amended October 12, 1976, P.L. 94–482, sec. 123(a) and 123(c)(1), 90 Stat. 2094; amended June 15, 1977, 95–43, sec. 1(b)(3), 91 Stat. 218; amended October 3, 1980, P.L. 96–374, sec. 404(a), 94 Stat. 1406; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1332; amended July 23, 1992, P.L. 102–325, sec. 404(a), 106 Stat. 506; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 415B. ALLOTMENT AMONG STATES.

(a) ALLOTMENT BASED ON NUMBER OF ELIGIBLE STUDENTS IN ATTENDANCE.—(1) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant

program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) REALLOTMENT.—The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under subsection (a) for such year.

(c) ALLOTMENTS SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 415C(b).

(20 U.S.C. 1070c–1) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 256; amended October 12, 1976, P.L. 94–482, sec. 123(c)(2), 90 Stat. 2094; amended October 3, 1980, P.L. 96–374, sec. 404(b), 1397, 94 Stat. 1407, 1503; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1333; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 415C. APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS.

(a) SUBMISSION AND CONTENTS OF APPLICATIONS.—A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) PAYMENT OF FEDERAL SHARE OF GRANTS MADE BY QUALIFIED PROGRAM.—From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not in excess of $5,000 per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 443(b)(1);

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that if the State's allocation under this subpart is based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State's allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart; and

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through a direct appropriation of State funds for the program under this subpart.

(c) RESERVATION AND DISBURSEMENT OF ALLOTMENTS AND REALLOTMENTS.—Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(20 U.S.C. 1070c–2) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 256, 257; amended October 12, 1976, P.L. 94–482, sec. 123(b), 90 Stat. 2094; amended June 15, 1977, P.L. 95–43, sec. 1(a)(6), 91 Stat. 213; amended November 1, 1978, P.L. 95–566, sec. 3, 92 Stat. 2403; amended October 3, 1980, P.L. 96–374, sec. 404(c), 1391, 94 Stat. 1407, 1503; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1333; amended July 23, 1992, P.L. 102–325, sec. 404(b)–(d), 106 Stat. 507; amended December 20, 1993, P.L. 103–208, sec. 2(b)(27), (m), 107 Stat. 2459, 2486.

SEC. 415D. ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

(a) Disapproval of Applications; Suspension of Eligibility.—(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Review of Decisions.—(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified

findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(20 U.S.C. 1070c–3) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 257, 258; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1335; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 415E. DEFINITION.

For the purpose of this subpart, the term "community service" means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

(20 U.S.C. 1070c–4) Enacted October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1336; amended June 3, 1987, P.L. 100–50, sec. 5, 101 Stat. 340; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

SEC. 418A. MAINTENANCE AND EXPANSION OF EXISTING PROGRAMS.

(a) PROGRAM AUTHORITY.—The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

(b) SERVICES PROVIDED BY HIGH SCHOOL EQUIVALENCY PROGRAM.—The services authorized by this subpart for the high school equivalency program include—

(1) recruitment services to reach persons—

(A)(i) who are 16 years of age and over; or

(ii) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;

(B)(i) who themselves, or whose parents, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or

(ii) who are eligible to participate, or have participated within the preceding 2 years, in programs under subpart 1 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or section 402 of the Job Training Partnership Act; and

(C) who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:

(A) personal, vocational, and academic counseling;

(B) placement services designed to place students in a university, college, or junior college program, or in military service or career positions; and

(C) health services;

(4) information concerning, and assistance in obtaining, available student financial aid;

(5) weekly stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth; and

(8) other essential supportive services, as needed to ensure the success of eligible students.

(c) SERVICES PROVIDED BY COLLEGE ASSISTANCE MIGRANT PROGRAM.—(1) Services authorized by this subpart for the college assistance migrant program include—

(A) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under subpart 1 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or section 402 of the Job Training Partnership Act, and who meet the minimum qualifications for attendance at a college or university;

(B) supportive and instructional services which include:

(i) personal, academic, and career counseling as an ongoing part of the program;

(ii) tutoring and academic skill building instruction and assistance;

(iii) assistance with special admissions;

(iv) health services; and

(v) other services as necessary to assist students in completing program requirements;

(C) assistance in obtaining student financial aid which includes, but is not limited to:

(i) stipends;

(ii) scholarships;

(iii) student travel;

(iv) career oriented work study;

(v) books and supplies;

(vi) tuition and fees;

(vii) room and board; and

(viii) other assistance necessary to assist students in completing their first year of college;

(D) housing support for students living in institutional facilities and commuting students;

(E) exposure to cultural events, academic programs, and other activities not usually available to migrant youth; and

(F) other support services as necessary to ensure the success of eligible students.

(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college; and

(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid.

(d) MANAGEMENT PLAN REQUIRED.—Each project application shall include a management plan which contains assurances that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

(1) staff in-service training;

(2) training and technical assistance;

(3) staff travel;

(4) student travel;

(5) interagency coordination; and

(6) an evaluation plan.

(e) FIVE-YEAR GRANT PERIOD; CONSIDERATION OF PRIOR EXPERIENCE.—Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs authorized by subpart 4 of this part in accordance with section 417A(b)(2).

(f) MINIMUM ALLOCATIONS.—The Secretary shall not allocate an amount less than—

(1) $150,000 for each project under the high school equivalency program, and

(2) $150,000 for each project under the college assistance migrant program.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for the high school equivalency program $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There are authorized to be appropriated for the college assistance migrant program $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1070d–2) Enacted October 3, 1980, P.L. 96–374, sec. 406, 94 Stat. 1411; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1341; amended June 3, 1987, P.L. 100–50, sec. 7, 101 Stat. 340; amended July 23, 1992, P.L. 102–325, sec. 405, 106 Stat. 507; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

SEC. 419A. STATEMENT OF PURPOSE.

It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(20 U.S.C. 1070d–31) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2900; amended Nov. 8, 1985, P.L. 99–145, sec. 1627(a), 99 Stat. 779; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1343; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

[Section 419B was repealed by P.L. 102–325, sec. 406(a), 106 Stat. 508.]

SEC. 419C. SCHOLARSHIPS AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of not less than 1 or more than 4 years during the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title. The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 419D(b) that are attributable to such excess;[1]

(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) BYRD SCHOLARS.—Individuals awarded scholarships under this subpart shall be known as "Byrd Scholars".

(20 U.S.C. 1070d–33) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat 2900; amended Nov. 8, 1985, P.L. 99–145, sec. 1627(b), 99 Stat. 779; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L.

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[1] So in law. Probably should end with "; and".

102–325, sec. 406(b), 106 Stat. 508; amended December 20, 1993, P.L. 103–208, sec. 2(b)(28), (m), 107 Stat. 2459–2460, 2486.

SEC. 419D. ALLOCATION AMONG STATES.

(a) ALLOCATION FORMULA.—From the sums appropriated pursuant to the authority of section 419K for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

(b) NUMBER OF SCHOLARSHIPS AVAILABLE.—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) USE OF CENSUS DATA.—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(d) CONSOLIDATION BY INSULAR AREAS PROHIBITED.—Notwithstanding section 501 of Public Law 95–1134 (48 U.S.C. 1469a), funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government.

(20 U.S.C. 1070d–34) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L. 102–325, sec. 406(c), 106 Stat. 509; amended December 20, 1993, P.L. 103–208, sec. 2(b)(29), (m), 107 Stat. 2460, 2486.

SEC. 419E. AGREEMENTS.

The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500.

(20 U.S.C. 1070d–35) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2901; amended Nov. 8, 1985, P.L. 99–145, sec. 1627(c), 99 Stat. 779; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1344; amended July 23, 1992, P.L. 102–325, sec. 406(g)(2), 106 Stat. 509; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 419F. ELIGIBILITY OF SCHOLARS.

(a) HIGH SCHOOL GRADUATION OR EQUIVALENT AND ADMISSION TO INSTITUTION REQUIRED.—Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) SELECTION BASED ON PROMISE OF ACADEMIC ACHIEVEMENT.—Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(20 U.S.C. 1070d–36) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1344; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 419G. SELECTION OF SCHOLARS.

(a) ESTABLISHMENT OF CRITERIA.—The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the Federated States of Micronesia, the Republic of the Marshall Islands, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) CONSULTATION REQUIREMENT.—In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) TIMING OF SELECTION.—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

(20 U.S.C. 1070d–37) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102–325, sec. 406(d), 106 Stat. 509; amended December 20, 1993, P.L. 103–208, sec. 2(b)(30), (m), 107 Stat. 2460, 2486.

SEC. 419H. STIPENDS AND SCHOLARSHIP CONDITIONS.

(a) AMOUNT OF AWARD.—Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) USE OF AWARD.—The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(20 U.S.C. 1070d–38) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102–325, sec. 406(e), 106 Stat. 509; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 419J.[1] CONSTRUCTION OF NEEDS PROVISIONS.

Except as provided in section 471, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

(20 U.S.C. 1070d–40) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1345; amended July 23, 1992, P.L. 102–325, sec. 406(f), 106 Stat. 509; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 419K. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for this subpart $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1070d–41) Enacted October 30, 1984, P.L. 98–558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1346; amended July 23, 1992, P.L. 102–325, sec. 406(h), 106 Stat. 509; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SUBPART 7[2]—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

SEC. 420B. SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS.

(a) PROGRAM AUTHORITY.—Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

(b) APPLICATIONS.—Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

(1) a description of the program to be established;

(2) assurances by the applicant to the Secretary that—

(A) not less than two-thirds of the participants in the program are low-income individuals;

(B) the participants require the services to pursue successfully a program of education beyond high school;

(C) the participants are enrolled at the institution which is the recipient of the grant;

(D) all participants will receive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and

(E) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and

(3) such information (and meet such conditions) as may be required by the Secretary.

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[1] Section 419I was repealed by P.L. 102–325, sec. 406(g)(1), 106 Stat. 509.

[2] Section 420 was repealed by P.L. 102–325, sec. 407, 106 Stat. 510; and section 420A was repealed by P.L. 102–325, sec. 408, 106 Stat. 510.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purpose of this section, $20,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

(d) DEFINITION.—For purposes of this subpart, the term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using the criteria of poverty established by the Bureau of the Census.

(20 U.S.C. 1070f) Enacted October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1352; amended June 3, 1987, P.L. 100–50, sec. 9, 101 Stat. 341; amended July 23, 1992, P.L. 102–325, sec. 409, 106 Stat. 510; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

SEC. 421. STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED.

(a) PURPOSE; DISCRIMINATION PROHIBITED.—

(1) PURPOSE.—The purpose of this part is to enable the Secretary—

(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435),

(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b),

(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

(D) to guarantee a portion of each loan insured

under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(B).

(2) DISCRIMINATION BY CREDITORS PROHIBITED.—No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year

ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs,

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to guaranty agencies.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

(c) Designation.—The program established under this part shall be referred to as the "Robert T. Stafford Federal Student Loan Program". Loans made pursuant to sections 427 and 428 shall be known as "Federal Stafford Loans".

(d) Limitation on Authorization To Guarantee New Loans Under This Part.—Notwithstanding any other provision of this part, no new loan guarantees shall be issued after June 30, 1994, if the Secretary does not issue final regulations implementing the changes made to this part under the Higher Education Amendments of 1992 prior to that date. The authority to issue new loan guarantees shall resume upon the Secretary's issuance of such regulations. This subsection shall not provide the basis for avoiding any requirements for notice and public hearing on such regulations.

(20 U.S.C. 1071) Enacted Nov. 8, 1965, P.L. 89–329, sec. 421, 79 Stat. 1236; amended Aug. 3, 1968, P.L. 90–460, secs. 2, 3, 82 Stat. 635–6; amended Oct. 16, 1968, P.L. 90–575, secs. 113, 114, 119, 82 Stat. 1020, 1021, 1027; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2099, 2100; amended June 15, 1977, P.L. 95–43, sec. 1 (a)(8), (a)(9), (a)(10), 91 Stat. 213; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended August 15, 1983, P.L. 98–79, sec. 6, 97 Stat. 482; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1353; amended April 28, 1988, P.L. 100–297, sec. 2601, 102 Stat. 330; amended July 18, 1988, P.L. 100–369, sec. 8, 12 Stat. 837; amended July 23, 1992, P.L. 102–325, sec. 411(a)(2), (c), 106 Stat. 510, 511; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 422. ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS.

(a) Purpose of and Authority for Advances to Reserve Funds.—

(1) Purpose; eligible recipients.—From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 421(b), the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 428(b) for the purpose of helping to establish or

strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

(2) MATCHING REQUIREMENT.—No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

(A) the sum of—

(i) advances made under this section prior to July 1, 1968;

(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

(iii) the proceeds of earnings on advances made under this section; or

(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

Except as provided in section 428(c)(10)(E) or (F), such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.

(3) TERMS AND CONDITIONS; REPAYMENT.—Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) LIMITATIONS ON TOTAL ADVANCES.—

(1) IN GENERAL.—The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(2) CALCULATION OF POPULATION.—For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(c) ADVANCES FOR INSURANCE OBLIGATIONS.—

(1) USE FOR PAYMENT OF INSURANCE OBLIGATIONS.—From sums appropriated pursuant to section 421(b)(4)(B), the Secretary shall advance to each State which has an agreement with the Secretary under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2) AMOUNT OF ADVANCES.—(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) USE OF EARNINGS FOR INSURANCE OBLIGATIONS.—The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4) REPAYMENT OF ADVANCES.—Advances made by the Secretary under this subsection shall, subject to subsection (d), be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 431.

(5) LIMITATION ON NUMBER OF ADVANCES.—Except as provided in paragraph (7), advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

(6) PAYMENT OF ADVANCES WHERE NO STATE PROGRAM.—(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or

organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(7) EMERGENCY ADVANCES.—The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency—

(A) in accordance with section 428(j), in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title; or

(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 428(c)(10)(F)(v), in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A).

(d) RECOVERY OF ADVANCES DURING FISCAL YEARS 1988 AND 1989.—

(1) AMOUNT AND USE OF RECOVERED FUNDS.—Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

(2) DETERMINATION OF GUARANTY AGENCY OBLIGATIONS.—In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller General taking into account the requirements of State law as in effect on the date of enactment of the Higher Education Amendments of 1986;

(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement of State law as in effect on such date of enactment.

(e) CORRECTION FOR ERRORS UNDER REDUCTION OF EXCESS CASH RESERVES.—

(1) IN GENERAL.—The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 428(c)(1), filed between September 1, 1988, and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

(2) AMOUNT.—The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

(f) REFUND OF CASH RESERVE PAYMENTS.—The Secretary shall, within 30 days after the date of enactment of the Higher Education Amendments of 1992, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986;

(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

(3) had payments under section 428(c)(1) or section 428(f) previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986; and

(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to

January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection are a factor in such agency's impending insolvency.

(g) PRESERVATION AND RECOVERY OF GUARANTY AGENCY RESERVES.—

(1) AUTHORITY TO RECOVER FUNDS.—Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part or the program authorized by part D of this title. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part or the program authorized by part D of this title, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that—

(A) the Secretary may direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

(B) the Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets;

(C) the Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets; and

(D) any such determination under subparagraph (A) or (B) shall be based on standards prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process.

(2) TERMINATION PROVISIONS IN CONTRACTS.—(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment

of this subsection shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

(3) Penalties.—Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 490 of this Act.

(4) Availability of funds.—Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be available for expenditure for expenses pursuant to section 458 of this Act.

(20 U.S.C. 1072) Enacted Nov. 8, 1965, P.L. 89–329, sec. 422, 79 Stat. 1236; amended Nov. 3, 1966, P.L. 89–752, sec. 11, 80 Stat. 1243; amended Oct. 16, 1968, P.L. 90–575, sec. 114, 82 Stat. 1021; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2100, 2101, 2102, 2103; amended June 15, 1977, P.L. 95–43, sec. 1(a)(11)(A), (B), (C), (a)(12), (a)(13), 91 Stat. 213, 214; amended Nov. 1, 1978, P.L. 95–561, sec. 1322(a), 92 Stat 2363; amended Oct. 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended April 7, 1986, P.L. 99–272, sec. 16011, 100 Stat. 339; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1354; amended Dec. 22, 1987, P.L. 100–203, sec. 3001, 101 Stat. 1330–36—1330–38; amended July 23, 1992, P.L. 102–325, sec. 412, and 416(p)(8), 106 Stat. 511, 527; amended August 10, 1993, P.L. 103–66, sec. 4041(a)(2)(A) and 4042, 107 Stat. 354, 357; amended December 20, 1993, P.L. 103–208, sec. 2(c)(1), (m), 107 Stat. 2460, 2486.

SEC. 423. EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS.

(a) Federal Insurance Barred to Lenders With Access to State or Private Insurance.—Except as provided in subsection (b), the Secretary shall not issue certificates of insurance under section 429 to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

(b) Exceptions.—The Secretary may issue certificates of insurance under section 429 to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State);

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to

a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(20 U.S.C. 1073) Enacted Nov. 8, 1965, P.L. 89–329, sec. 423, 79 Stat. 1237; amended Oct. 16, 1968, P.L. 90–575, sec. 119, 82 Stat. 1026; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2103; amended June 15, 1977, P.L. 95–43, sec. 1(a)(14), 91 Stat. 214; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1358; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 424. SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.

(a) LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1998. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 2002.

(b) APPORTIONMENT OF AMOUNTS.—The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(20 U.S.C. 1074) Enacted Nov. 8, 1965, P.L. 89–329, sec. 424, 79 Stat. 1237; amended Aug. 3, 1968, P.L. 90–460, sec. 1, 82 Stat. 634; amended Oct. 16, 1968, P.L. 90–575, sec. 112, 82 Stat. 1020; amended June 23, 1972, P.L. 92–318, sec. 132(a), 86 Stat. 261; amended June 30, 1976, P.L. 94–328, sec. 2(a), 90 Stat. 727; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2103, 2104; amended October 3, 1980, P.L. 96–374, secs. 411, 1391, 94 Stat. 1415, 1503; amended April 7, 1986, P.L. 99–272, sec. 16018(a), 100 Stat. 348; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1358; amended July 23, 1992, P.L. 102–325, sec. 411(b)(1), 106 Stat. 510; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 425. LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE.

(a) ANNUAL AND AGGREGATE LIMITS.—

(1) ANNUAL LIMITS.—(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

(ii)[1] in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

(iii)[1] in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and

(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500;[2]

(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

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[1] Effective July 1, 1994, section 2(c)(2)(A) of the Higher Education Technical Amendments of 1993 replaces clauses (ii) and (iii) with the following:

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

"(I) $3,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

"(I) $5,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;"

[2] Effective July 1, 1994, section 2(c)(2)(B) of the Higher Education Technical Amendments of 1993 strikes the semicolon and inserts a period.

(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.

(2) AGGREGATE LIMITS.—(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary) and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student), but (II) excluding loans made under section 428A or 428B,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(b) LEVEL OF INSURANCE COVERAGE BASED ON DEFAULT RATE.—

(1) REDUCTION FOR DEFAULTS IN EXCESS OF 5 OR 9 PERCENT.—(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 430 by the Secretary to any eligible lender as described in section 435(d)(1)(D) exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 435(d)(1)(D) for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(d)(1)(D) shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1976, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) COMPUTATION OF AMOUNTS IN REPAYMENT.—For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C); and

(D) the original principal amount of loans repaid by the Secretary under section 437.

(3) PAYMENTS TO ASSIGNEES.—For the purpose of this subsection, payments by the Secretary under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) PLEDGE OF FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

(20 U.S.C. 1075) Enacted Nov. 8, 1965, P.L. 89–329, sec. 425, 79 Stat. 1238; amended Oct. 16, 1968, P.L. 90–575, secs. 116, 120, 82 Stat. 1023 and 1027; amended June 23, 1972, P.L. 92–318, sec. 132(a), 86 Stat. 261; further amended June 23, 1972, P.L. 92–318, sec. 132B(a), 86 Stat. 262; amended Oct. 12, 1976, sec. 127(a), 90 Stat. 2104, 2105; amended June 15, 1977, P.L. 95–43, sec. 1 (a)(15), (a)(16), (a)(17), 91 Stat. 214; amended November 1, 1978, P.L. 95–566, sec. 5(b)(2), 92 Stat. 2403; amended October 3, 1980, P.L. 96–374, secs. 412, 1391, 94 Stat. 1416, 1503; as amended August 13, 1981, P.L. 97–35, sec. 535 (a), (b), 95 Stat. 455; amended April 7, 1986, P.L. 99–272, sec. 16013(e)(1), 100 Stat. 340; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1359; amended June 3, 1987, P.L. 100–50, sec. 10(a), 101 Stat. 341; amended July 23, 1992, P.L. 102–325, sec. 413, 106 Stat. 512; amended December 20, 1993, P.L. 103–208, sec. 2(c)(2) and (3), (m), 107 Stat. 2460–61, 2486

SEC. 426. SOURCES OF FUNDS.

Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(20 U.S.C. 1076) Enacted Nov. 8, 1965, P.L. 89–329, sec. 426, 79 Stat. 1238; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2106; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1361; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 427. ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS.

(a) LIST OF REQUIREMENTS.—Except as provided in section 428C, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 484, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement;

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in subparagraph (C);

(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 428B or 428C), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 427A, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 437;

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G)(i) contains a notice of the system, of disclosure of information concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations;

(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with the regulations of the Secretary; and

(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

(A) that nothing in this title shall be interpreted—

(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

(B) in the case of any student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney; and

(4) the funds borrowed by a student are disbursed in accordance with section 428G.

(b) Special Rules for Multiple Disbursement.—For the purpose of subsection (a)(4)—

(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

(2) the requirements of such subsection shall not apply in the case of a loan made under section 428B or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(c) Special Repayment Rules.—Except as provided in subsection (a)(2)(H), the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable).

(20 U.S.C. 1077) Enacted Nov. 8, 1965, P.L. 89–320, sec. 427, 79 Stat. 1238; amended Nov. 8, 1966, P.L. 89–794, sec. 1101(b), 80 Stat. 1476; amended Aug. 3, 1968, P.L. 90–460, sec. 2, 82 Stat. 635; amended Oct. 16, 1968, P.L. 90–575, secs. 113, 116, 120, 82 Stat. 1021, 1023, 1027; amended June 23, 1972, P.L. 92–318, sec. 132B(b), 86 Stat. 262; further amended June 23, 1972, P.L. 92–318, sec. 132C(c), 86 Stat. 263; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2107, 2108; amended June 15, 1977, P.L. 95–43, sec. 1(a)(9), 91 Stat. 213; sec. 1(a)(18), 91 Stat. 214; amended November 1, 1978, P.L. 95–566, sec. 5(a)(1), 92 Stat. 2403; amended October 3, 1980, P.L. 96–374, secs. 413(a), 413(c), 415(a)(2), 415(b)(1), 416(a)(2), 423(a)(1), 1391, 94 Stat. 1417, 1418, 1419, 1420, 1421, 1432, 1503; amended August 31, 1981, P.L. 97–35, sec. 537 (b)(1), (d)(2), (e)(1), 95 Stat. 456, 457; amended August

15, 1983, P.L. 98–79, sec. 10, 97 Stat. 484; amended April 7, 1986, P.L. 99–272, secs. 16012(a), 16013(b), 16017(b)(1), 100 Stat. 339, 340, 343; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1361; amended June 3, 1987, P.L. 100–50, sec. 10 (b), (c), 101 Stat. 341; amended July 18, 1988, P.L. 100–369, secs. 5(b), 7(c), and 11, 102 Stat. 836, 837, and 838; amended December 19, 1989, P.L. 101–239, secs. 2002(a)(1), 2004(b)(2), 103 Stat. 2111 and 2116; amended November 15, 1991, P.L. 102–164, secs. 601(a) and 602(a), 105 Stat. 1065 and 1066; amended July 23, 1992, P.L. 102–325, sec. 414, 106 Stat. 513; amended December 20, 1993, P.L. 103–208, sec. 2(c)(4), (m), 107 Stat. 2461, 2486

SEC. 427A. APPLICABLE INTEREST RATES.

(a) Rates To Be Consistent for Borrower's Entire Debt.—With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) Reduction for New Borrowers After Decline in Treasury Bill Rates.—If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

(c) Rates for Supplemental Loans for Students and Loans for Parents.—

(1) In general.—Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428A or 428B on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

(2) Reduction of rate after decline in treasury bill rates.—If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the

bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

(3) INCREASE OF RATE AFTER INCREASE IN TREASURY BILL RATES.—If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

(4) AVAILABILITY OF VARIABLE RATES.—(A) For any loan made pursuant to section 428A or 428B and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 428A(d) or 428B(d), the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B) For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(D) Notwithstanding subparagraph (A)—

(i) for any loan made pursuant to section 428A for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and

(II) the interest rate shall not exceed 11 percent; and

(ii) for any loan made pursuant to section 428B for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and

(II) the interest rate shall not exceed 10 percent.

(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 428B for which the first disbursement is made on or after July 1, 1994—

(i) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and

(ii) the interest rate shall not exceed 9 percent.

(d) INTEREST RATES FOR NEW BORROWERS AFTER JULY 1, 1988.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B, and 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

(e) INTEREST RATES FOR NEW BORROWERS AFTER OCTOBER 1, 1992.—

(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (d) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B and 428C) for which the first disbursement is made on or after October 1, 1992, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under section 427, 428, or 428H of this part, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 9 percent.

(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(f) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1994.—

(1) IN GENERAL.—Notwithstanding subsections (a), (b), (d), and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(g) IN SCHOOL AND GRACE PERIOD RULES.—

(1) GENERAL RULE.—Notwithstanding the provisions of subsection (f), but subject to subsection (h), with respect to any loan under section 428 or 428H of this part for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under paragraph (2).

(2) RATE DETERMINATION.—For purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(h) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1998.—

(1) IN GENERAL.—Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 428B and 428C) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the securities with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(2) INTEREST RATES FOR NEW PLUS LOANS AFTER JULY 1, 1998.—Notwithstanding subsections (a), (b), (d), (e), (f), and (g), with respect to any loan made under section 428B for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

(A) by substituting "2.1 percent" for "1.0 percent" in subparagraph (B); and

(B) by substituting "9.0 percent" for "8.25 percent" in the matter following such subparagraph.

(3) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(i) TREATMENT OF EXCESS INTEREST PAYMENTS ON NEW BORROWER ACCOUNTS RESULTING FROM DECLINE IN TREASURY BILL RATES.—

(1) EXCESS INTEREST ON 10 PERCENT LOANS.—If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(2) AMOUNT OF ADJUSTMENT FOR 10 PERCENT LOANS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(3) EXCESS INTEREST ON LOANS AFTER 1992 AMENDMENTS, TO BORROWERS WITH OUTSTANDING BALANCES.—If, with respect to a loan made on or after the date of enactment of the Higher Education Amendments of 1992 to a borrower, who on the date of entering into the note or other written evidence of the loan, has an outstanding balance of principal or interest on any other loan made, insured, or guaranteed under this part, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.1 percent is less than the applicable interest rate, then an adjustment shall be made—

(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the

Government pursuant to section 428(a), by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(4) AMOUNT OF ADJUSTMENT.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) the applicable interest rate minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.1 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(5) ANNUAL ADJUSTMENT OF INTEREST AND BORROWER ELIGIBILITY FOR CREDIT.—Any adjustment amount computed pursuant to paragraphs (2) and (4) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan, but the excess interest shall be calculated and credited to the Secretary. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the periodic payment on the loan, by reducing the number of payments that shall be made with respect to the loan, or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 433(b).

(6) PUBLICATION OF TREASURY BILL RATE.—For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

(7) CONVERSION TO VARIABLE RATE.—(A) Subject to subparagraphs (C) and (D), a lender or holder shall convert the interest rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and

ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).

(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 433(b) if such disclosure has not been previously made.

(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.

(j) LESSER RATES PERMITTED.—Nothing in this section or section 428C shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

(k) DEFINITIONS.—For the purpose of subsections (a) and (d) of this section—

(1) the term "period of instruction" shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term "period of enrollment" shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such

as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

(20 U.S.C. 1077a) Enacted October 3, 1980, P.L. 96–374, sec. 415(a)(1), 94 Stat. 1419; amended August 13, 1981, P.L. 97–35, sec. 534(a)(1), Stat. 454; amended August 15, 1983, P.L. 98–79, sec. 5, 97 Stat. 481; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1364; amended June 3, 1987, P.L. 100–50, sec. 10(d)(1), 101 Stat. 342; amended July 23, 1992, P.L. 102–325, sec. 415, 106 Stat. 514; amended August 10, 1993, P.L. 103–66, sec. 4101, 107 Stat. 364; amended December 20, 1993, P.L. 103–208, sec. 2(c)(5)–(10), (m), 107 Stat. 2461, 2486.

SEC. 428. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

(a) FEDERAL INTEREST SUBSIDIES.—

(1) TYPES OF LOANS THAT QUALIFY.—Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Secretary under this part; or

(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2) ADDITIONAL REQUIREMENTS TO RECEIVE SUBSIDY.—(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth such student's estimated cost of attendance (as determined under section 472);[1]

(II) sets forth such student's estimated financial assistance; and

(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and

(ii) meet the requirements of subparagraph (B); and

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[1] Section 602 of Public Law 102–164 (105 Stat. 1066) amended section 428(a)(2)(A)(i)(I) by striking "and" at the end thereof. This amendment could not be executed.

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part F of this title) and the amount of such need, subject to the provisions of subparagraph (D).

(C) For the purpose of paragraph (1) and this paragraph—

(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 3 of part A, and parts C and E of this title, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 480(c)), plus other scholarship, grant, or loan assistance; and

(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 428A or 428H or a parent under section 428B of this Act or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

(F) Except as provided in subparagraph (D), an eligible institution may refuse to certify a statement which permits a student to receive a loan under this part or to certify a loan amount that is less than the student's determination of need (as determined under part F of this title), if the reason for such action is documented and provided in written form to each student so affected.

(3) AMOUNT OF INTEREST SUBSIDY.—(A)(i) Subject to section 438(c), the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

(I) which accrues prior to the beginning of the repayment period of the loan, or

(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C).

(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(v) A lender may not receive interest on a loan for any period that precedes the date that is—

(I) in the case of a loan disbursed by check, 10 days before the first disbursement of the loan; or

(II) in the case of a loan disbursed by electronic funds transfer, 3 days before the first disbursement of the loan.

(B) If—

(i) a State student loan insurance program is covered by an agreement under subsection (b),

(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

(iii) the Secretary determines that subsection (d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

(4) SUBMISSION OF STATEMENTS BY HOLDERS ON AMOUNT OF PAYMENT.—Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) DURATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS.—The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1998, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 2002.

(6) ASSESSMENT OF BORROWER'S FINANCIAL CONDITION NOT PROHIBITED OR REQUIRED.—Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(7) LOANS THAT HAVE NOT BEEN CONSUMMATED.—Lenders may not charge interest or receive interest subsidies or special allowance payments for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTEREST SUBSIDIES.—

(1) REQUIREMENTS OF INSURANCE PROGRAM.—Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

(ii)[1] in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

(I) $3,500, if such student is enrolled in a program whose length is at least on academic year in length (as determined under section 481);

(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such academic year; and

(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such academic year;

(iii)[1] in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and

(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree; and

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[1] Effective July 1, 1994, section 2(c)(13)(A) of the Higher Education Technical Amendments of 1993 replaces clauses (ii) and (iii) with the following:

"(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

"(I) $3,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

"(I) $5,500; or

"(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;".

(v) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500;

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary), and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student, but (II) excluding loans made under section 428A or 428B,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the repayment period of any insured loan may not exceed 10 years, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed, and shall contain a notice that repayment may, following a default by the borrower, be subject to income contingent repayment in accordance with subsection (m);[1]

(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 428A, the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with regulations of the Secretary; and

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[1] The amendment made to this subparagraph (by section 4043(a) of P.L. 103–66) adding a reference to subsection (m) is not effective until July 1, 1994.

(ii) repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years commencing at the beginning of the repayment period determined under paragraph (7) of this subsection;

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 427A;

(G) insures not less than 98 percent of the unpaid principal of loans insured under the program, except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to section 428(j) or 439(q);[1]

(H) provides for collection of a single insurance premium equal to not more than 1.0 percent[2] of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a) (1) and (2);

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by a borrower—

(i) during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable); and

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[1] Section 4102(b) of P.L. 103–66, changing the percentage of principal required to be insured, applies to loans for which the first disbursement of principal is made on or after October 1, 1993.

[2] Section 4102(c) of P.L. 103–66 amended this subparagraph by striking "3 percent" and inserting "1.0 percent". Subsection (d) of such section states the amendments made by section 4102 are effective July 1, 1994.

(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship;

(N) provides that funds borrowed by a student—

(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student; or

(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney;

(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 428G;

(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;

(Q) provides for the guarantee of loans made to students and parents under sections 428A and 428B;

(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

(T) authorizes (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the limitation, suspension, or termination of the eligibility of an eligible institution if—

(I) such institution is ineligible for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a final judgment obtained by a student seeking such a refund;

(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil, or administrative proceeding, or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding, regarding the obtaining, maintenance, or disbursement of State or Federal grant, loan, or work assistance funds; or

(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial assistance funds;

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all locations of such institution, unless the Secretary finds, within 30 days of notification of the action by the guaranty agency, that the guaranty agency's action did not comply with the requirements of this section;

(U) provides (i) for the eligibility of all lenders described in section 435(d)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the emergency action, limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders, and (iii) for (I) a compliance audit of each lender at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) if the lender submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;

(V) provides authority for the guaranty agency to require a participation agreement between the guaranty agency and each eligible institution within the State in which it is designated, as a condition for guaranteeing loans made on behalf of students attending the institution;

(W) provides assurances that the agency will implement all requirements of the Secretary for uniform claims and procedures pursuant to section 432(l); and

(X) provides information to the Secretary in accordance with section 428(c)(10) and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations.

(2) CONTENTS OF INSURANCE PROGRAM AGREEMENT.—Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

(C) provide for making such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit;

(E)(i) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency; and

(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left the eligible institution, notify the borrower of the date on which the repayment period begins; and

(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

(i) the transferor and the transferee will be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

(I) the sale or other transfer;

(II) the identity of the transferee;

(III) the name and address of the party to whom subsequent payments or communications must be sent; and

(IV) the telephone numbers of both the transferor and the transferee; and

(ii) the transferee will be required to notify the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

(I) any sale or other transfer of the loan; and

(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan,

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 427(a)(2)(B) or 428(b)(7) or is in repayment status.

(3) RESTRICTIONS ON INDUCEMENTS, MAILINGS, AND ADVERTISING.—A guaranty agency shall not—

(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part;

(B) offer, directly or indirectly, any premium, incentive payment, or other inducement to any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made under section 428H or a loan made as part of a guaranty agency's lender-of-last-resort program) for the purpose of securing the designation of that guaranty agency as the insurer of such loans;

(C) conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or

(D) conduct fraudulent or misleading advertising concerning loan availability.

(4) SPECIAL RULE.—For the purpose of paragraph (1)(M)(i)(III) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program. Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(5) GUARANTY AGENCY INFORMATION TRANSFERS.—(A) Until such time as the Secretary has implemented section 485B and is able to provide to guaranty agencies the information required by such section, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

(i) the name and the social security number of the borrower; and

(ii) the amount borrowed and the cumulative amount borrowed.

(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

(6) STATE GUARANTY AGENCY INFORMATION REQUEST OF STATE LICENSING BOARDS.—Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.

(7) REPAYMENT PERIOD.—(A) In the case of a loan made under section 427 or 428, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin—

(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.

(B) In the case of a loan made under section 428H, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in clause (i) or (ii) of subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

(C) In the case of a loan made under section 428A, 428B, or 428C, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

(8) MEANS OF DISBURSEMENT OF LOAN PROCEEDS.—Nothing in this title shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.

(c) GUARANTY AGREEMENTS FOR REIMBURSING LOSSES.—

(1) AUTHORITY TO ENTER INTO AGREEMENTS.—(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall, be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without adminis-

trative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 98[1] percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 88[1] percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 78[1] percent of the amount of such excess.

(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

(ii) the original principal amount of loans insured by it which have been fully repaid; and

(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

(D) Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender, servicer, or guaranty agency designated for exceptional performance under section 428I shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

(E)[1] Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender-of-last-resort program, the Secretary shall apply the provisions of—

(i) the fourth sentence of subparagraph (A) by substituting "100 percent" for "98 percent";

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[1] The amendments made by section 4108(a) of P.L. 103–66, changing the reimbursement percentages and adding subparagraphs (E) and (F), apply to loans for which the first disbursement is made on or after October 1, 1993.

(ii) subparagraph (B)(i) by substituting "100 percent" for "88 percent"; and

(iii) subparagraph (B)(ii) by substituting "100 percent" for "78 percent".

(F)[1] Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

(i) the fourth sentence of subparagraph (A) by substituting "100 percent" for "98 percent";

(ii) subparagraph (B)(i) by substituting "90 percent" for "88 percent"; and

(iii) subparagraph (B)(ii) by substituting "80 percent" for "78 percent".

(2) CONTENTS OF GUARANTY AGREEMENTS.—The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including a requirement that each beneficiary of insurance on the loan submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known);

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

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[1] See footnote 1 on previous page.

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 422(c);

(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school;

(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, certifies to the Secretary that diligent attempts have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary;, and

(H) set forth assurances that—

(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made, insured, or guaranteed under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (l);

(ii) the guaranty agency may require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and

(iii) the guaranty agency will require the institution to use such information only to assist the institution in reminding students of their obligation to repay student loans and shall prohibit the institution from disseminating the information for any other purpose.

(I) may include such other provisions as may be necessary to promote the purpose of this part.

(3) FORBEARANCE.—A guaranty agreement under this subsection—

(A) shall contain provisions providing that—

(i) upon written request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to in writing by the parties to the loan with the approval of the insurer, and otherwise consistent with the regulations of the Secretary, if the borrower—

(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 427(a)(2)(C)(vii) or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 427(a)(2)(C) or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

(II) has a debt burden under this title that equals or exceeds 20 percent of income; or

(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

(ii) the length of the forbearance granted by the lender—

(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

(II) under clause (i)(II) shall not exceed 3 years; or

(III) under clause (i)(III) shall not exceed the period for which the borrower is serving in a position described in such clause; and

(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of such forbearance;

(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer; and

(C) shall contain provisions that specify that the form of forbearance granted by the lender for purposes of this paragraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled.

Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower, under conditions authorized by the Secretary. Such forbearances shall include (i) forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under section 428(b)(1)(M) or 427(a)(2)(C), and (ii) if the borrower is less than 60 days delinquent on such loans at the time of sale or transfer, forbearances for borrowers on loans which are sold or transferred.

(4) DEFINITIONS.—For the purpose of this subsection, the terms "insurance beneficiary" and "default" have the meanings assigned to them by section 435.

(5) APPLICABILITY TO EXISTING LOANS.—In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6) SECRETARY'S EQUITABLE SHARE.—(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) an amount equal to 27 percent of such payments (subject to subparagraph (D) of this paragraph) for costs related to the student loan insurance program, including the administrative costs of collection of loans reimbursed under this subsection, the administrative costs of preclaims assistance for default prevention, the administrative costs of supplemental preclaims assistance for default prevention, and the administrative costs of monitoring the enrollment and payment status of students (as such terms are defined in subparagraph (B) or (C) of this paragraph).

(B) For the purpose of this paragraph and subsection (f) of this section, the term—

(i) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable;

(ii) "administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable; and

(iii) "administrative costs of monitoring the enrollment and repayment status of students" means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

(C)(i) For the purpose of subsection (1), "administrative costs of supplemental preclaims assistance" means (subject to divisions (ii) through (iv)) any administrative costs—

(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance generally comparable in intensiveness to the level of preclaims assistance performed, prior to the 120th day of delinquency, by the guaranty agency as of October 16, 1990, and which has been in delinquent status for at least 120 days; and

(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed with the guaranty agency.

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

(ii) The administrative costs for which payment under subsection (1) is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention described in division (i)(I) of this subparagraph.

(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan;

(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan; or

(III) that is an organization or entity that has a contract with a guaranty agency to perform collection activities with respect to the same loans in the event of default.

(iv) In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.

(7) NEW PROGRAMS ELIGIBLE FOR 100 PERCENT REINSURANCE.—(A) Notwithstanding paragraph (1)(C), the amount to be paid a guaranty agency for any fiscal year—

(i) which begins on or after October 1, 1977 and ends before October 1, 1991; and

(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

(i) begins on or after October 1, 1991; and

(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) or is one of the 4 succeeding fiscal years.

(C) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) or (B) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

(8) ASSIGNMENT TO PROTECT FEDERAL FISCAL INTEREST.—(A) If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(B) An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request.

(9) GUARANTY AGENCY RESERVE LEVEL.—(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain a current minimum reserve level of at least .5 percent of the total attributable amount of all outstanding loans guaranteed by such agency for the fiscal year of the agency that begins in 1993. For purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency. The minimum reserve level shall increase to—

(i) .7 percent of such total attributable amount for the fiscal year of the agency that begins in 1994;

(ii) .9 percent of such total attributable amount for the fiscal year of the agency that begins in 1995; and

(iii) 1.1 percent of such total attributable amount for each fiscal year of the agency that begins on or after January 1, 1996.

(B) The Secretary shall collect, on an annual basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency's Federal reimbursement payments are reduced to 80 percent pursuant to section 428(c)(1)(B)(ii), or (iii) the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require, as appropriate, the guaranty agency to submit and implement a management plan acceptable to the Secretary within 30 working days of any such event.

(D)(i) If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the guaranty agency will improve its financial and administrative condition to the required level within 18 months.

(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.

(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition;

(iii) the Secretary determines that the guaranty agency is in danger of financial collapse;

(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest;

(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers; or

(vi) the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.

(F) If a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

(i) permit the transfer of guarantees to another guaranty agency;

(ii) revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation, or termination of the guaranty agency;

(iii) transfer guarantees to the Department of Education for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this Act;

(iv) design and implement a plan to restore the guaranty agency's viability;

(v) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

(I) meet the immediate cash needs of the guaranty agency;

(II) ensure the uninterrupted payment of claims; or

(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j);

(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or

(vii) take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, to avoid disruption of the student loan program, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.

(G) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

(ii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subparagraph shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.

(I) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing.

(J) Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this paragraph shall be confidential and exempt from disclosure under section 552 of title 5, United States Code, relating to freedom of information, or any other Federal law.

(K) The Secretary, within 3 months after the end of each fiscal year, shall submit to the House Committee on Education and Labor and the Senate Committee on Labor and Human

Resources a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this title.

(d) USURY LAWS INAPPLICABLE.—No provision of any law of the United States (other than this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) PAYMENTS FOR LENDER REFERRAL SERVICES.—

(1) IN GENERAL; AGREEMENTS WITH GUARANTY AGENCIES.—(A) The Secretary shall make payments in accordance with this paragraph to a guaranty agency with which the Secretary has an agreement under subparagraph (B) which provides a lender referral service for students who meet the requirements of paragraph (2).

(B)(i) The Secretary may enter into agreements with guaranty agencies that meet standards established by the Secretary to provide lender referral services in geographic areas specified by the Secretary. Such guaranty agencies shall be paid in accordance with paragraph (3) for such services.

(ii) The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part and part D of this title, the Secretary determines are reasonable and necessary to provide lender referral services under this subsection and ensure loan access to student and parent borrowers during the transition from the loan programs under this part to the direct student loan programs under part D of this title. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.

(2) STUDENT ELIGIBILITY.—A student is eligible to apply for lender referral services to a guaranty agency with which the Secretary has an agreement under paragraph (1)(B) if—

(A) such student is either a resident of, or is accepted for enrollment in, or is attending, an eligible institution located in a geographic area for which the Secretary (i) determines that loans are not available to all eligible students, and (ii) has entered into an agreement with a guaranty agency under paragraph (1)(B) to provide lender referral services; and

(B) such student has sought and was unable to find a lender willing to make a loan under this part.

(3) AMOUNT OF PAYMENT.—From funds available for costs of transition under section 458 of the Act, the amount which the Secretary shall pay to any eligible guaranty agency under this paragraph shall be equal to one-half of 1 percent of the

total principal amount of the loans (upon which insurance was issued under this part) to a student described in paragraph (2) who subsequently obtained such loans because of such agency's referral service.

(4) INCENTIVE FEES TO LENDERS.—Nothing in this or any law shall prohibit an agency from using all or any portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a lender referral service.

(f) PAYMENTS OF CERTAIN COSTS.—

(1) PAYMENTS BASED ON INSURANCE PROGRAM AGREEMENT.—(A) For a fiscal year prior to fiscal year 1994, the Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency for the purposes of—

(i) the administrative cost of promotion of eligible lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention;

(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

(v) other such costs related to the student loan insurance program subject to such agreement.

(B) The total amount of payments for any fiscal year prior to fiscal year 1994 made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency. The guaranty agency shall, be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

(C) No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(2) APPLICATIONS FOR PAYMENTS.—No payment may be made under paragraph (1) of this subsection unless the guaranty agency submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(A) set forth assurances that the student loan insurance program subject to the guaranty agreement complies with subparagraphs (A), (B), (G), (R), (S), (T), and (U) of subsection (b)(1);

(B) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(C) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(D) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(E) set forth assurances that the guaranty agency will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require, to carry out the provisions of this subsection.

(g) ACTION ON INSURANCE PROGRAM AND GUARANTY AGREEMENTS.—If a nonprofit private institution or organization—

(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b), and

(2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii),

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

(h) LENDING BY GUARANTY AGENCIES.—

(1) LENDING FROM SALLIE MAE ADVANCES.—From sums advanced by the Association pursuant to section 439(p), each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

(2) AMOUNT OF ADVANCES.—(A) Each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency or lender is eligible to receive may not exceed 25 percent of the average of the loans guaranteed by that agency or lender for the 3 years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency or lender does not have 3 years previous experience, the amount such agency or lender is eligible to receive may not exceed 25 percent of the loans guaranteed under a program of a State of comparable size.

(B) Each guaranty agency and each eligible lender in a State described in section 435(d)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered into between the Association and such agency or lender.

(3) LOAN TERM, CONDITIONS, AND BENEFITS.—Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

(i) MULTIPLE DISBURSEMENT OF LOANS.—

(1) ESCROW ACCOUNTS ADMINISTERED BY ESCROW AGENT.—Any guaranty agency or eligible lender (hereafter in this subsection referred to as the "escrow agent") may enter into an

agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the "lender") for the purpose of authorizing disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 21 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

(2) AUTHORITY OF ESCROW AGENT.—Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) LENDERS-OF-LAST-RESORT.—

(1) GENERAL REQUIREMENT.—In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200. The guaranty agency shall consider the request of any eligible lender, as defined under section 435(d)(1)(A) of this Act, to serve as the lender-of-last-resort pursuant to this subsection.

(2) RULES AND OPERATING PROCEDURES.—The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) the program establishes operating hours and methods of application designed to facilitate application by students and ensure a response within 60 days after the student's original complete application is filed under this subsection;

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this title in order to receive a loan under this part from an eligible lender, nor be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;

(C) information about the availability of loans under the program is made available to institutions of higher education in the State;

(D) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation; and

(E) the guaranty agency notifies the Secretary when the guaranty agency believes or has reason to believe that the Secretary may need to exercise the Secretary's authority under section 439(q).

(3) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES DURING TRANSITION TO DIRECT LENDING.—(A) In order to ensure the availability of loan capital during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title, the Secretary is authorized to provide a guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.

(k) INFORMATION ON DEFAULTS.—

(1) PROVISION OF INFORMATION TO ELIGIBLE INSTITUTIONS.—Notwithstanding any other provision of law, in order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency shall, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection shall include the names and addresses of such students.

(2) PUBLIC DISSEMINATION NOT AUTHORIZED.—Nothing in paragraph (1) of this subsection shall be construed to authorize

public dissemination of the information described in paragraph (1).

(3) BORROWER LOCATION INFORMATION.—Any information provided by the institution relating to borrower location shall be used by the guaranty agency in conducting required skip-tracing activities.

(l) PRECLAIMS ASSISTANCE AND SUPPLEMENTAL PRECLAIMS ASSISTANCE.—

(1) ASSISTANCE REQUIRED.—Upon receipt of a proper request from the lender, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in preclaims assistance activities (as described in subsection (c)(6)(C)(i)(I)) and supplemental preclaims assistance activities (as described in subsection (c)(6)(C)) with respect to each loan covered by such agreement.

(2) PAYMENTS FOR SUPPLEMENTAL PRECLAIMS ASSISTANCE.—The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency that engages in supplemental preclaims assistance (as defined in subsection (c)(6)(C)) on a loan guaranteed under this part. For each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principal and the accrued unpaid interest of the loan.

(m) INCOME CONTINGENT REPAYMENT.—[1]

(1) AUTHORITY OF SECRETARY TO REQUIRE.—The Secretary shall require at least 10 percent of the borrowers who have defaulted on loans made under this part that are assigned to the Secretary under subsection (c)(8) to repay those loans under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part D of this title.

(2) LOANS FOR WHICH INCOME CONTINGENT REPAYMENT MAY BE REQUIRED.—A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).

(n) STATE SHARE OF DEFAULT COSTS.—[2]

(1) IN GENERAL.—In the case of any State in which there are located any institutions of higher education that have a cohort default rate that exceeds 20 percent, such State shall pay to the Secretary an amount equal to—

(A) the new loan volume attributable to all institutions in the State for the current fiscal year; multiplied by

(B) the percentage specified in paragraph (2); multiplied by

(C) the quotient of—

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[1] Subsection (m) was completely revised by section 4043(a) of P.L. 103–66. Section 4043(b) of that Public Law provided that these revisions are not effective until July 1, 1994.

[2] Subsection (n), added by section 4201 of P.L. 103–66, is effective October 1, 1994.

(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State; divided by

(ii) the total amount of loan volume attributable to current and former students of institutions located in that State entering repayment in the period used to calculate the cohort default rate.

(2) PERCENTAGE.—For purposes of paragraph (1)(B), the percentage used shall be—

(A) 12.5 percent for fiscal year 1995;

(B) 20 percent for fiscal year 1996; and

(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

(3) CALCULATION.—For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

(A) the amount of the loans received for attendance by such institution's current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

(4) FEE.—A State may charge a fee to an institution of higher education that participates in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection. Such fee structure shall include a process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.

(20 U.S.C. 1078) Enacted Nov. 8, 1965, P.L. 89–329, sec. 428, 79 Stat. 1240; amended Aug. 3, 1968, P.L. 90–460, secs. 1, 2, 3, 82 Stat. 634–638; amended Oct. 16, 1968, P.L. 90–575, secs. 111, 112, 113, 115, 116, 117, 1220, 82 Stat. 1020–27; amended June 23, 1972, P.L. 92–318, sec. 132(b), 86 Stat. 261; further amended June 23, 1972, P.L. 92–318, sec. 132C (a) and (b), 86 Stat. 262, 263; sec. 428(e) repealed June 23, 1972, P.L. 92–318, sec. 132D(c), 86 Stat. 264; amended April 18, 1974, P.L. 93–269, 88 Stat. 87, 89; amended June 30, 1976, P.L. 94–328, sec. 2(b), 90 Stat. 727; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2108–2120; amended June 15, 1977, P.L. 95–43, sec. 1(a) (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), 91 Stat. 214, 215, 216; amended November 1, 1978, P.L. 95–566, sec. 5 (a)(2), (b)(1), (b)(3)–(5), 92 Stat. 2403; amended October 3, 1980, P.L. 96–374, secs. 411(b), 412 (c), (d), (f), 413(b), (d), 414, 415(a) (3), (4), (5), (b)(2), 417, 423 (b), (c), (d), 1391, 94 Stat. 1416, 1417, 1418, 1419, 1420, 1422, 1432, 1503; amended August 13, 1981, P.L. 97–35, secs. 532(a), (b)(1), 535(c), (d), 536(b), 537(b)(2), (c), (d)(1), (e)(2), 95 Stat. 451, 452, 455, 456, 457; amended August 15, 1983, P.L. 98–79, sec. 10(b), 97 Stat 484; amended April 7, 1986, P.L. 99–272, secs. 16012(b), 16013(a), (c), (e)(2), (3), 16014(a)(1), (b), 16015(b), 16016, 16018(a)(2), 16021, 16032(c), 100 Stat. 339–343, 348, 349, 355; amended May 23, 1986, P.L. 99–320, sec. 2(a)(2), (b), 100 Stat. 491; amended October 17, 1986, P.L. 99–498, sec. 402, 100 Stat. 1367; amended June 3, 1987, P.L. 100–50, sec. 10(a)–(c), (e)–(m), 101 Stat. 341, 342; amended Dec. 23, 1987, P.L. 100–203, secs. 3001(b) and 3003, 101 Stat. 1330–38—1330–39; amended July 18, 1988, P.L. 100–369, secs. 5(b)(2), 7(c), 11, 102 Stat.

836–838; amended Dec. 19, 1989, P.L. 101–239, secs. 2002(a)(2), (b)(1), 2004(b)(3), and 2006(b) (1) and (2); 103 Stat. 2111, 2112, 2116, and 2118; amended Nov. 5, 1990, P.L. 101–508, secs. 3002, 3004(b), 104 Stat. 2222; amended April 9, 1991, P.L. 102–26, sec. 9, 105 Stat. 128; amended November 15, 1991, P.L. 102–164, secs. 601(b), 604, and 605(b), 105 Stat. 1065, 1066, and 1068; amended July 23, 1992, P.L. 102–325, secs. 411(b)(2), 416(a)–(e)(1), 416(f)–(p)(7), and 416(q)–(t) 106 Stat. 510, 516, 520, and 527; amended August 10, 1993, P.L. 103–66, secs. 4021, 4041(a), (b), 4043(a), 4044, 4045, 4102(c), 4107, 4108(a), (b), 4110(a), and 4112(a), 107 Stat. 370, 354, 355, 358, 359, 367, 368, 369, and 370; amended September 21, 1993, P.L. 103–82, sec. 102(c)(1), 107 Stat. 823; amended December 20, 1993, P.L. 103–208, sec. 2(c)(11)–(28), (m), 107 Stat. 2462–65, 2486.

SEC. 428A.[1] FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS.

(a) Authority To Borrow.—

(1) STUDENT ELIGIBILITY.—Graduate and professional students (as defined by regulations of the Secretary) and undergraduate independent students shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), loans under this section shall have the same terms, conditions, and benefits as all other loans made under this part. In addition, undergraduate dependent students shall be eligible to borrow funds under this section if the financial aid administrator determines, after review of the financial information submitted by the student and considering the debt burden of the student, that exceptional circumstances will likely preclude the student's parents from borrowing under section 428B for purposes of the expected family contribution and that the student's family is otherwise unable to provide such expected family contribution. If the financial aid administrator makes such a determination, appropriate documentation of such determination shall be maintained in the institution's records to support such determination. No student shall be eligible to borrow funds under this section until such student has obtained a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate.

(2) INSTITUTIONAL ELIGIBILITY.—Funds may not be borrowed under this section by any undergraduate student who is enrolled at any institution during any fiscal year if the cohort default rate for such institution, for the most recent fiscal year for which such rates are available, equals or exceeds 30 percent. The Secretary shall notify institutions to which such restriction applies annually, and specify the fiscal year covered by the restriction. The Secretary shall afford any institution to which such restriction applies an opportunity to present evidence contesting the accuracy of the calculation of the cohort default rate for such institution.

(b) LIMITATIONS ON AMOUNTS OF LOANS.—

(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount a student may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer, is:

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[1] Effective July 1, 1994, section 428A is repealed in accordance with section 4047(b) and (d) of P.L. 103–66.

(A) In the case of a student at an eligible institution who has not successfully completed the first and second year of a program of undergraduate education—

(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year.

(B)[1] In the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(iii) $1,675, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year.

(C) For the purposes of this paragraph, the number of years that a student has completed in a program of undergraduate education shall include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.

(D) In the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $10,000.

(2) AGGREGATE LIMIT.—The aggregate insured principal amount of insured loans made to any student under this section, minus any interest capitalized under subsection (c), shall not exceed—

(A) $23,000, in the case of any student who has not successfully completed a program of undergraduate education; and

(B) $73,000, in the case of any graduate or professional student, as such terms are defined by regulations issued by the Secretary, including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student.

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[1] Effective July 1, 1994, section 2(c)(29) of the Higher Education Technical Amendments of 1993 replaces subparagraph (B) with the following:

"(B) In the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

"(i) $5,000; or

"(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year.".

(3) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any student under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) the total of (i) any loan for which the student is eligible under section 428[1] and (ii) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of the student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(4) DISBURSEMENT.—Any loan under this section shall be disbursed in the manner required by subparagraphs (N) and (O) of section 428(b)(1).

(c) PAYMENT OF PRINCIPAL AND INTEREST.—

(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, or, if the loan is disbursed in multiple installments, not later than 60 days after the disbursement of the last such installment, subject to deferral pursuant to sections 427(a)(2)(C) and 428(b)(1)(M). In the case of a borrower under this section who is also a borrower under a program of student loan insurance covered by an agreement under section 427 or 428(b), the lender shall notify the borrower of the option to defer the commencement of the repayment for six months after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, except that interest shall begin to accrue, and shall be paid in accordance with paragraph (2), notwithstanding such delay in the commencement of repayment. The lender shall also notify the borrower of the borrower's option to commence repayment earlier than the beginning of such repayment period and the difference in total cost to the borrower.

(2) CAPITALIZATION OF INTEREST—.(A) Interest on loans made under this section—

(i) which are disbursed in installments,

(ii) for which payments of principal are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i), or

(iii) for which the commencement of the repayment period is delayed in accordance with paragraph (1) to coincide with the commencement of the repayment period of a loan made under section 427 or 428,

shall, if agreed upon by the borrower and the lender—

(I) be paid monthly or quarterly or

(II) be added to the principal amount of the loan not more frequently than quarterly by the lender.

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[1] Effective February 20, 1994, section 2(c)(31) of the Higher Education Technical Amendments of 1993 strikes "section 428" and inserts "sections 428 and 428H".

(B) Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

(3) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(c).

(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at the time the first payment of principal is due from the borrower.

(d) REFINANCING.—

(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest

rate provided under section 427A(c)(4). A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to recover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) REFINANCING BY DISCHARGE OF PREVIOUS LOAN.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B));

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) CERTIFICATION IN LIEU OF PROMISSORY NOTE PRESENTATION.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(5) NOTIFICATION TO BORROWERS OF AVAILABILITY OF REFINANCING OPTIONS.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than October 1, 1987, in the case of loans made before the date of enactment of this Act, notify the borrower of such loan—

(A) of the refinancing options for which the borrower is eligible under this subsection;

(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

(20 U.S.C. 1078–1) Enacted October 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2120, 2121, 2122, 2123; amended June 15, 1977, P.L. 95–43, sec. 1(a)(30), (31), (32), 91 Stat. 216; amended October 3, 1980; P.L. 96–374, secs. 412(e), (f), 1391, 94 Stat. 1420, 1421, 1503; amended August 13, 1981, P.L. 97–35, sec. 535(e), 95 Stat. 455; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1384; amended June 3, 1987, P.L. 100–50, sec. 10(n), (o)(1), (p)(1), (q), (r), 101 Stat. 343, 344; amended July 18, 1988, P.L. 100–369, secs. 4 and 5, 102 Stat. 835–836; amended December 19, 1989, P.L. 101–239, sec. 2003(a)(1), (b)(1), and (c), 103 Stat. 2112–2114; amended November 5, 1990, P.L. 101–508, sec. 3006(b), 104 Stat. 2222; amended April 9,

1991, P.L. 102–26, sec. 2(c)(1), 105 Stat. 123; amended July 23, 1992, P.L. 102–325, sec. 417, 106 Stat. 529; amended December 20, 1993, P.L. 103–208, sec. 2(c)(29)–(32), (m), 107 Stat. 2465, 2486.

SEC. 428B. FEDERAL PLUS LOANS.

(a) Authority To Borrow.—Parents of a dependent student, who do not have an adverse credit history as determined pursuant to regulations of the Secretary, shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c), (d), and (e), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms "student" and "borrower" as used in this part shall include a parent borrower under this section.

(b) Limitation based on need.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c) PLUS Loan Disbursement.—All loans made under this section shall be disbursed in accordance with the requirements of section 428G[1] and shall be disbursed by—

(1) an electronic transfer of funds from the lender to the eligible institution; or

(2) a check copayable to the eligible institution and the parent borrower.

(d) Payment of Principal and Interest.—

(1) Commencement of repayment.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M).

(2) Capitalization of interest.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the borrower.

(3) Subsidies prohibited.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

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[1] The amendment made by section 4109(a) of P.L. 103–66 to this subsection, adding the reference to multiple disbursement requirements, applies to loans for which the first disbursement is made on or after October 1, 1993.

(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(c).

(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

(e) REFINANCING.—

(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) REFINANCING BY DISCHARGE OF PREVIOUS LOAN.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B));

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) CERTIFICATION IN LIEU OF PROMISSORY NOTE PRESENTATION.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(5) NOTIFICATION TO BORROWERS OF AVAILABILITY OF REFINANCING OPTIONS.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than October 1, 1987, in the case of loans made before the date of enactment of this Act, notify the borrower of such loan—

(A) of the refinancing options for which the borrower is eligible under this subsection;

(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

(20 U.S.C. 1078–2) Enacted October 3, 1980, P.L. 96–374, sec. 419, 94 Stat. 1424; amended August 13, 1981, P.L. 97–35, secs. 532(b)(3), 534(a)(2), (c)(1), (c)(3), 95 Stat. 452, 454, 455; amended August 15, 1983, P.L. 98–79, sec. 12, 97 Stat. 484; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1386; amended June 3, 1987, P.L. 100–50, sec. 10(o), (p)(2), (q), (r), 101 Stat. 343, 344; amended July 23, 1992, P.L. 102–325, sec. 418, 106 Stat. 531; amended August 10, 1993, P.L. 103–66, sec. 4109(a), 107 Stat. 369; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 428C. FEDERAL CONSOLIDATION LOANS.[1]

(a) AGREEMENTS WITH ELIGIBLE LENDERS.—

(1) AGREEMENT REQUIRED FOR INSURANCE COVERAGE.—For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student

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[1] Section 428C was extensively amended by section 4046(a) of P.L. 103–66. Section 4046(c) of that Public Law provided that those amendments are effective July 1, 1994, except that (A) the amendment to subsection (b)(4)(C) is effective on the date of enactment of that Public Law, and (B) subsection (f) (as added by section 4106(a) of that Public Law) is effective on that date of enactment.

loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

(A) the Student Loan Marketing Association;

(B) State agencies described in subparagraphs (D) and (F) of section 435(d)(1); and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

(2) INSURANCE COVERAGE OF CONSOLIDATION LOANS.—Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such agency.

(3) DEFINITION OF ELIGIBLE BORROWERS.—(A) For the purpose of this section, the term "eligible borrower" means a borrower who, at the time of application for a consolidation loan is in repayment status, or in a grace period preceding repayment, or is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.

(B)(i) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section, except—

(I) with respect to eligible student loans received after the date of receipt of the consolidation loan; and

(II) that loans received prior to the date of the consolidation loan may be added to the consolidation loan during the 180-day period following the making of the consolidation loan.

(ii) Loans made under this section shall, to the extent used to discharge loans made under this title, be counted against applicable limitations on aggregate indebtedness contained in sections 425(a)(2), 428(b)(1)(B), 428A(b)(2), and 464(a)(2).

(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple's marital status.

(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A); and

(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4).

(4) DEFINITION OF ELIGIBLE STUDENT LOANS.—For the purpose of paragraph (1), the term "eligible student loans" means loans—

(A) made, insured, or guaranteed under this part, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans);

(B) made under part E of this title; or

(C) made under subpart II of part A of title VII of the Public Health Service Act.

(b) CONTENTS OF AGREEMENTS, CERTIFICATES OF INSURANCE, AND LOAN NOTES.—

(1) AGREEMENTS WITH LENDERS.—Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A) that, in the case of all lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan with income-sensitive repayment terms from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3), and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all eligible student loans received by the eligible borrower which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and

(F) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

(2) ISSUANCE OF CERTIFICATE OF COMPREHENSIVE INSURANCE COVERAGE.—The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

(3) CONTENTS OF CERTIFICATE.—A certificate issued under paragraph (2) shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

(i) that the loan is a legal, valid, and binding obligation of the borrower;

(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

(F) the alternative repayment terms which will be offered to borrowers by the lender;

(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(4) TERMS AND CONDITIONS OF LOANS.—A consolidation loan made pursuant to this section shall be insurable by the

Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M), and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

(ii) provides that interest shall accrue and be paid—

(I) by the Secretary, in the case of a consolidation loan that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

(II) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I);

(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

(5) Direct loans.—In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a direct consolidation loan. Such direct consolidation loan shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part D of this title or pursuant to any other repayment provision under this section. The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.

(c) Payment of Principal and Interest.—

(1) Interest rates.—(A) Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B) or (C). For the purposes of payment of special allowances under section 438(b)(2), the interest rate required

by this subsection is the applicable interest rate with respect to a consolidation loan.

(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the greater of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

(ii) 9 percent.

(C) A consolidation loan made on or after July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

(2) REPAYMENT SCHEDULES.—(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which shall include the establishment of graduated or income-sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

(iv) is equal to or greater than $20,000 but less than $40,000, then such consolidation loan shall be repaid in not more than 20 years;

(v) is equal to or greater than $40,000 but less than $60,000, then such consolidation loan shall be repaid in not more than 25 years; or

(vi) is equal to or greater than $60,000, then such consolidation loan shall be repaid in not more than 30 years.

(B) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

(3) ADDITIONAL REPAYMENT REQUIREMENTS.—Notwithstanding paragraph (2)—

(A) a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment be an amount equal to not less than the accrued unpaid interest; and

(B) except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5.

(4) COMMENCEMENT OF REPAYMENT.—Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

(5) INSURANCE PREMIUMS PROHIBITED.—No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan.

(d)[1] SPECIAL PROGRAM AUTHORIZED.—

(1) GENERAL RULE AND DEFINITION OF ELIGIBLE STUDENT LOAN.—

(A) IN GENERAL.—Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subparagraphs (A), (B), and (C) of subsection (a)(1) for the consolidation of eligible student loans.

(B) APPLICABILITY RULE.—Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

(C) DEFINITION.—For the purpose of this subsection, the term "eligible student loans" means loans—

(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4); and

(ii) made under subpart I of part A of title VII of the Public Health Service Act.

(2) INTEREST RATE RULE.—

(A) IN GENERAL.—The portion of each consolidated loan that is attributable to an eligible student loan described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

(B) DETERMINATION OF THE MAXIMUM INTEREST RATE.—For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-

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[1] Section 306(b) of P.L. 102–408 provides that this new subsection (d) is effective December 13, 1992.

month period for which the determination is made, plus 3 percent.

(C) PUBLICATION OF MAXIMUM INTEREST RATE.—The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of such determination.

(3) SPECIAL RULES.—

(A) NO SPECIAL ALLOWANCE RULE.—No special allowance under section 438 shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(B) NO INTEREST SUBSIDY RULE.—No interest subsidy under section 428(a) shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(C) ADDITIONAL RESERVE RULE.—Notwithstanding any other provision of this Act, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

(D) INSURANCE RULE.—Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance fund established under section 710 of the Public Health Service Act.

(4) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.

(e)[1] TERMINATION OF AUTHORITY.—The authority to make loans under this section expires at the close of September 30, 1998. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 424(a).

(f) INTEREST PAYMENT REBATE FEE.—

(1) IN GENERAL.—For any month beginning on or after October 1, 1993, each holder of a consolidation loan under this section for which the first disbursement was made on or after October 1, 1993, shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 1.05 percent of the principal plus accrued unpaid interest on such loan.

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[1] Section 419(g) of the Higher Education Amendments of 1992 (Public Law 102–325) amended section 428C(d) by striking "September 30, 1992" and inserting "September 30, 1998". Section 306(a)(1) of the Health Professions Education Extension Amendments of 1992 (Public Law 102–408) redesignated subsection (d) as subsection (e). Section 306(b) of Public Law 102–408 attempted to amend section 428(e), as redesignated, by striking "1992" and inserting "1997".

(2) DEPOSIT.—The Secretary shall deposit all fees collected pursuant to subsection (a) into the insurance fund established in section 431.

(20 U.S.C. 1078–3) Enacted April 7, 1986, P.L. 99–272, sec. 16017(a), 100 Stat. 343; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1388; amended June 3, 1987, P.L. 100–50, sec. 10(a), 101 Stat. 345; amended July 23, 1992, P.L. 102–325, sec. 419, 106 Stat. 532; amended October 13, 1992, P.L. 102–408, sec. 306, 106 Stat. 2084; amended August 10, 1993, P.L. 103–66, sec. 4046(a), (b)(2), and 4106(a), 107 Stat. 360, 363, and 368; amended December 20, 1993, P.L. 103–208, sec. 2(c)(33)–(37), (m), 107 Stat. 2466, 2486.

SEC. 428D. COMMINGLING OF FUNDS.

Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

(20 U.S.C. 1078–4) Enacted October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1393; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

[Section 428E was repealed by section 605(b) of Public Law 102–164; 105 Stat. 1068.]

SEC. 428F. DEFAULT REDUCTION PROGRAM.

(a) OTHER REPAYMENT INCENTIVES.—

(1) SALE OF LOAN.—

(A) Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 428(c), the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the loan to an eligible lender. Such loan shall not be sold to an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part. Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances.

(B) An agreement between the guaranty agency and the Secretary for purposes of this paragraph shall provide—

(i) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay to the holder of such loan a special allowance pursuant to section 438.

(C) A loan which does not meet the requirements of subparagraph (A) may also be eligible for sale under this paragraph upon a determination that the loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.

(2) USE OF PROCEEDS OF SALES.—Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under paragraph (1) of this subsection shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B)(ii) of this subsection for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

(3) BORROWER ELIGIBILITY.—Any borrower whose loan is sold under paragraph (2) shall not be precluded by section 484 from receiving additional loans or grants under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale.

(4) APPLICABILITY OF GENERAL LOAN CONDITIONS.—A loan which is sold under paragraph (1) of this subsection shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

(b) SPECIAL RULE.—Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew eligibility for all title IV student financial assistance (regardless of whether the defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances. A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.

(20 U.S.C. 1078–6) Reenacted December 19, 1989, P.L. 101–239, sec. 2005(a), 103 Stat. 2116–2118; amended July 23, 1992, P.L. 102–325, sec. 420, 106 Stat. 534; amended December 20, 1993, P.L. 103–208, sec. 2(c)(38)–(40), (m), 107 Stat. 2466, 2486.

SEC. 428G. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.

(a) MULTIPLE DISBURSEMENT REQUIRED.—

(1) TWO DISBURSEMENTS REQUIRED.—The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

(2) MINIMUM INTERVAL REQUIRED.—The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning

of the second semester, quarter, or similar division of such period of enrollment.

(b) DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.—

(1) FIRST YEAR STUDENTS.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.

(2) OTHER STUDENTS.—The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

(c) METHOD OF MULTIPLE DISBURSEMENT.—Disbursements under subsection (a)—

(1) shall be made in accordance with a schedule provided by the institution (under section 428(a)(2)(A)(i)(III)) that complies with the requirements of this section;

(2) may be made directly by the lender or, in the case of a loan under sections 428 and 428A, may be disbursed pursuant to the escrow provisions of section 428(i); and

(3) notwithstanding subsection (a)(2), may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.

(d) WITHHOLDING OF SECOND DISBURSEMENT.—

(1) WITHDRAWING STUDENTS.—A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement. Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

(2) STUDENTS RECEIVING OVER-AWARDS.—If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this title, the institution such student is attending shall withhold' and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount, except that overawards permitted pursuant to section 443(b)(4) of the Act shall not be construed to be overawards for purposes of this paragraph. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

(e) EXCLUSION OF CONSOLIDATION AND FOREIGN STUDY LOANS.—The provisions of this section shall not apply in the case of a loan made under section 428C or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(f) BEGINNING OF PERIOD OF ENROLLMENT.—For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

(g) SALES PRIOR TO DISBURSEMENT PROHIBITED.—An eligible lender shall not sell or transfer a promissory note for any loan made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

(2) the first disbursement of such loan has been made.

(20 U.S.C. 1078–7) Enacted December 19, 1989, P.L. 101–239, sec. 2004(a), 101 Stat. 2115–2116; amended November 5, 1990, P.L. 101–508, sec. 3003, 104 Stat. 222; amended July 23, 1992, P.L. 102–325, sec. 421, 106 Stat. 534; amended August 10, 1993, P.L. 103–66, sec. 4109(b), 107 Stat. 369; amended December 20, 1993, P.L. 103–208, sec. 2(c)(41), (m), 107 Stat. 2466, 2486.

SEC. 428H. UNSUBSIDIZED STAFFORD LOANS FOR MIDDLE-INCOME BORROWERS.

(a) IN GENERAL.—It is the purpose of this section to authorize insured loans under this part for borrowers who do not qualify for Federal interest subsidy payments under section 428 of this Act. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 428 shall apply to loans made pursuant to this section.

(b) ELIGIBLE BORROWERS.—Any student meeting the requirements for student eligibility under section 484 (including graduate and professional students as defined in regulations promulgated by the Secretary)[1] shall be entitled to borrow an unsubsidized Stafford loan. Such student shall provide to the lender a statement from the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(1) sets forth such student's estimated cost of attendance (as determined under section 472);

(2) sets forth such student's estimated financial assistance, including a loan which qualifies for subsidy payments under section 428; and

(3) certifies the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c).

(c) DETERMINATION OF AMOUNT OF LOAN.—The determination of the amount of a loan by an eligible institution under subsection (b) shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

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[1] Section 4047(a) of P.L. 103–66 added the parenthetical phrase to subsection (b), completely revised subsection (d) of this section and added paragraph (5) to subsection (e). Section 4047(d) stated that "except as otherwise provided" in such amendments, these amendments are effective July 1, 1994. In addition, section 4047(c) provided as follows:

(c) TERMS, CONDITIONS AND BENEFITS.—Notwithstanding the amendments made by this section, with respect to loans provided under sections 428A and 428H of the Act (as such sections existed on the date preceding the date of enactment of this Act) the terms, conditions and benefits applicable to such loans under such sections shall continue to apply to such loans after the date of enactment of this Act.

(d) LOAN LIMITS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the annual and aggregate limits for loans under this section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized loan program established under section 428.

(2) ANNUAL LIMITS FOR INDEPENDENT, GRADUATE, AND PROFESSIONAL STUDENTS.—The maximum annual amount of loans under this section an independent student (or a student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program) may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer, shall be the amount determined under paragraph (1), plus—

(A) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—

(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

(i) $5,000; or

(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(C) in the case of such a student who is a graduate or professional student attending an eligible institution, $10,000.

(3) AGGREGATE LIMITS FOR INDEPENDENT, GRADUATE, AND PROFESSIONAL STUDENTS.—The maximum aggregate amount of loans under this section a student described in paragraph (2) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in paragraph (2), as prescribed by the Secretary by regulation.

(e) PAYMENT OF PRINCIPAL AND INTEREST.—

(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall begin at the beginning of the repayment period described in section 428(b)(7).[1]

(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 427(a)(2)(C) and 428(b)(1)(M) shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

(3) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A.

(5)[1] AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually; or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

(6) REPAYMENT PERIOD.—[1]For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at the time the first payment of principal is due from the borrower.

(f) ORIGINATION FEE.—[2]

(1) AMOUNT OF ORIGINATION FEE.—The lender shall charge the borrower an origination fee in the amount of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

(2) RELATION TO APPLICABLE INTEREST.—Such origination fee shall not be taken into account for purposes of determining compliance with section 427A.

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[1] Effective April 1, 1994, section 2(c)(43)(B) of the Higher Education Technical Amendments of 1993 adds at the end the following new sentence:

"Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date."

[2] Subsection (f) was extensively revised by section 4102(b) of P.L. 103–66. Section 4102(d) of that Public Law provided that such revisions are effective on July 1, 1994.

(3) Disclosure required.—The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(4) Use of origination fee to offset default costs.—Each lender making loans under this section shall transmit all origination fees authorized to be collected from borrowers to the Secretary, who shall use such fees to pay the Federal costs of default claims paid for loans under this section and to reduce the cost of special allowances paid thereon, if any, under section 438(b).

(5) Review of origination fee and insurance premium.—In fiscal year 1995, the Secretary is directed to analyze the risk rates of borrowers who have participated in this program in the 2 previous fiscal years. If the Secretary finds, that as a result of this review, the projected defaults and special allowance costs of the unsubsidized program do not exceed the combined origination fee under this subsection and the insurance premium under subsection (h), the Secretary is directed to lower the origination fee and insurance premium accordingly.

(g) Single Application Form and Loan Repayment Schedule.—A guaranty agency shall use a single application form and a single repayment schedule for subsidized Federal Stafford loans made pursuant to section 428 and for unsubsidized Federal Stafford loans made pursuant to this section.

(h)[1] Insurance Premium.—Each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) may charge a borrower under this section an insurance premium equal to not more than 1.0 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders.

(20 U.S.C. 1078–8) Enacted July 23, 1992, P.L. 102–325, sec. 422, 106 Stat. 535; amended August 10, 1993, P.L. 103–66, secs. 4047(a) and 4102(b), 107 Stat. 363 and 366; amended December 20, 1993, P.L. 103–208, sec. 2(c)(42)–(45), (m), 107 Stat. 2466–67, 2486.

SEC. 428I. SPECIAL INSURANCE AND REINSURANCE RULES.

(a) Designation of Lenders, Servicers, and Guaranty Agencies.—

(1) Authority.—Whenever the Secretary determines that an eligible lender, servicer, or guaranty agency has a compliance performance rating that equals or exceeds 97 percent, the Secretary shall designate the eligible lender, servicer, or guaranty agency, as the case may be, for exceptional performance. The Secretary shall notify each appropriate guaranty agency of the eligible lenders and servicers designated under this section.

(2) Compliance performance rating.—For purposes of paragraph (1), a compliance performance rating is determined with respect to compliance with due diligence in the collection of loans under this part for each year for which the determination is made. Such rating is equal to the percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary by regulation, with respect to—

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[1] Section 4102(b)(2) of P.L. 103–66 added at the end this new subsection effective July 1, 1994.

(A) loans serviced during the period by the eligible lender or servicer; or

(B) loans on which loan collection was attempted by the guaranty agency.

(b) PAYMENT TO LENDERS AND SERVICERS.—

(1) 100 PERCENT PAYMENT RULE.—Each guaranty agency shall pay each eligible lender or servicer (as agent for an eligible lender) designated under subsection (a) 100 percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender or servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under this section or until the guaranty agency receives notice from the Secretary that the designation of the lender or servicer under subsection (a) has been revoked.

(2) REVOCATION AUTHORITY.—The Secretary shall revoke the designation of a lender or servicer under subsection (a) if any quarterly audit required under subsection (c)(5) is not received by the Secretary by the date established by the Secretary or if the audit indicates the lender or servicer failed to maintain 97 percent or higher compliance with program regulations, as reflected in the performance of not less than 97 percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary for the purpose of this section, for 2 consecutive months or 90 percent for 1 month.

(3) DOCUMENTATION.—Nothing in this section shall restrict or limit the authority of guaranty agencies to require the submission of claims documentation evidencing servicing performed on loans, except that the guaranty agency may not require greater documentation than that required for lenders and servicers not designated under subsection (a).

(4) PAYMENTS TO GUARANTY AGENCIES.—The Secretary shall pay to each guaranty agency designated under subsection (a) the appropriate percentage under this subsection for the 1-year period following the receipt by the guaranty agency of the notification of designation under subsection (a).

(c) SUPERVISION OF DESIGNATED LENDERS AND SERVICERS.—

(1) AUDITS FOR LENDERS AND SERVICERS.—Each eligible lender or servicer desiring a designation under subsection (a) shall have a financial and compliance audit of the loan portfolio of such eligible lender or servicer conducted annually by a qualified independent organization from a list of qualified organizations promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall measure the lender's or servicer's compliance with the due diligence standards and shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender or servicer for the purpose of this section. Each eligible lender or servicer shall submit the audit required by this section to the Secretary and to each appropriate guaranty agency.

(2) ADDITIONAL INFORMATION ON LENDERS AND SERVICERS.—Each appropriate guaranty agency shall provide

the Secretary with such other information in its possession regarding an eligible lender or servicer desiring designation as may relate to the Secretary's determination under subsection (a), including but not limited to any information suggesting that the application of a lender or servicer for designation under subsection (a) should not be approved.

(3) SECRETARY'S DETERMINATIONS.—The Secretary shall make the determination under subsection (a) based upon the audits submitted under this section, such other information as provided by any guaranty agency under paragraph (2), and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the eligible lender or servicer and the appropriate guaranty agency that its application for designation as an exceptional lender or servicer has been approved.

(4) COST OF AUDIT.—Each eligible lender or servicer shall pay for all the costs of the audits required under this section.

(5) COMPLIANCE AUDIT.—In order to maintain its status as an exceptional eligible lender or servicer, the lender or servicer shall undergo a quarterly compliance audit at the end of each quarter (other than the quarter in which status as an exceptional lender or servicer is established through a financial and compliance audit, as described in subsection (c)(1)), and submit the results of such audit to the Secretary and such appropriate guaranty agency. The compliance audit will review compliance with due diligence requirements for the period since the last audit.

(6) LOSS OF DESIGNATION.—If the audit performed pursuant to paragraph (5) fails to meet the standards for designation as an exceptional lender or servicer under subsection (a)(1), the lender or servicer shall lose its designation as an exceptional lender or servicer. A lender or servicer receiving a compliance audit not meeting the standard for designation as an exceptional lender or servicer may reapply for designation under subsection (a) at any time.

(7) DUE DILIGENCE STANDARDS.—Due diligence standards used for determining compliance under paragraph (5) shall be promulgated by the Secretary after consultation with lenders, guaranty agencies and servicers and shall consist of a list of specific elements for the Federal regulations selected to provide an indication of systems degradation.

(8) ADDITIONAL REVOCATION AUTHORITY.—Notwithstanding any other provision of this section, designation under subsection (a) may be revoked at any time by the Secretary if the Secretary determines that the eligible lender or servicer has failed to maintain an overall level of regulatory compliance consistent with the audit submitted by the eligible lender or servicer under this section or if the Secretary believes the lender or servicer may have engaged in fraud in securing designation under subsection (a) or is failing to service loans in accordance with program regulations.

(d) SUPERVISION OF DESIGNATED GUARANTY AGENCIES.—

(1) AUDIT OF GUARANTY AGENCIES.—Each guaranty agency desiring a designation under subsection (a) shall have a financial and compliance audit of the defaulted loan portfolio of such guaranty agency conducted annually by a qualified independent organization or person from a list of qualified organizations or persons promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall include defined statistical sampling techniques designed to measure the performance rating of the guaranty agency for the purpose of this section. Each guaranty agency shall submit the audit required by this paragraph to the Secretary.

(2) QUARTERLY SAMPLE AUDITS.—The Secretary may require quarterly sample audits as a means of determining continued qualification of the guaranty agency for designation as an exceptional guaranty agency.

(3) SECRETARY'S DETERMINATIONS.—The Secretary shall make the determination under subsection (a) based upon the audits submitted under this section and other information in his possession. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the guaranty agency that its application for designation as an exceptional guaranty agency has been approved.

(4) COSTS OF AUDITS.—Each guaranty agency shall pay for all of the costs of the audits regulated by this section.

(5) REVOCATION FOR FRAUD.—The Secretary may revoke the designation of a guaranty agency under subsection (a) at any time if the Secretary has reason to believe the guaranty agency secured its designation under subsection (a) through fraud or fails to comply with applicable regulations.

(6) REVOCATION BASED ON PERFORMANCE.—Designation as an exceptional guaranty agency may be revoked at any time by the Secretary upon 30 days notice and an opportunity for a hearing before the Secretary upon a finding by the Secretary that the guaranty agency has failed to maintain an acceptable overall level of regulatory compliance.

(e) SPECIAL RULE.—Reimbursements made by the Secretary on loans submitted for claim by an eligible lender or loan servicer designated for exceptional performance under this section shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, loan servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

(f) LIMITATION.—Nothing in this section shall be construed to affect the processing of claims on student loans of eligible lenders not subject to this paragraph.

(g) CLAIMS.—A lender, servicer, or guaranty agency designated under subsection (a) failing to service loans or otherwise comply with applicable program regulations shall be considered in violation of section 3729 of title 31, United States Code, [1].

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[1] So in law. The comma probably should be deleted. Section 2(c)(46) of the Higher Education Technical Amendments of 1993 struck "the Federal False Claims Act" and inserted "section 3729 of title 31, United States Code,".

(h) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to the Chairman of the Senate Labor and Human Resources Committee and the House Committee on Education and Labor, an evaluation of the provisions of this section including, but not limited to, the following:

(1) The effectiveness of due diligence performed by lenders and servicers receiving designation as exceptional lenders or servicers from the perspective of securing maximum collections from borrowers.

(2) A quantification of the dollar volume of claims that were paid to exceptional lenders and servicers that would not have been paid under applicable program provisions prior to the enactment of this section.

(3) An assessment of the impact of this section on the financial condition of guaranty agencies.

(4) An assessment of the savings to lenders, servicers, and guaranty agencies resulting from designation as exceptional performance.

(5) An identification of specific administration steps that lenders, servicers, and guaranty agencies do not have to perform as a result of designation as exceptional lenders, servicers, or guaranty agencies.

(6) A recommendation for program modifications applicable to all program participants based on the findings of the evaluation.

(7) A recommendation for modifications to this section and whether the program should be continued.

(i) TERMINATION.—After receipt of the study authorized in subsection (h), the Secretary may terminate such program if he determines such termination to be in the fiscal interest of the United States.

(j) DEFINITIONS.—For the purpose of this section—

(1) the term "due diligence requirements" means the activities required to be performed by lenders on delinquent loans pursuant to regulations issued by the Secretary;

(2) the term "eligible loan" means a loan made, insured or guaranteed under part B of title IV;

(3) the term "servicer" means an entity servicing and collecting student loans which—

(A) has substantial experience in servicing and collecting consumer loans or student loans;

(B) has an independent financial audit annually which is furnished to the Secretary and any other parties designated by the Secretary;

(C) has business systems which are capable of meeting the requirements of part B of title IV;

(D) has adequate personnel who are knowledgeable about the student loan programs authorized by part B of title IV; and

(E) does not have any owner, majority shareholder, director, or officer of the entity who has been convicted of a felony.

(20 U.S.C. 1078–9) Enacted July 23, 1992, P.L. 102–325, sec. 422, 106 Stat. 536; amended December 20, 1993, P.L. 103–208, sec. 2(c)(46), (m), 107 Stat. 2467, 2486.

SEC. 428J. LOAN FORGIVENESS FOR TEACHERS, INDIVIDUALS PERFORMING NATIONAL COMMUNITY SERVICE AND NURSES.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to—

(1) enter the teaching and nursing profession; and

(2) perform national and community service.

(b) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to carry out a demonstration program of assuming the obligation to repay a loan made, insured or guaranteed under this part (excluding loans made under section 428A, 428B, or 428C) for any new borrower after October 1, 1989, who—

(A) is employed as a full-time teacher—

(i) in a school which qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools; and

(ii) of mathematics, science, foreign languages, special education, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(B) serves as a full-time volunteer under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973, or to perform comparable service as a full-time employee of an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, if the borrower does not receive compensation which exceeds the greater of—

(i) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

(ii) an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act); or

(C) is employed full-time as a nurse in a public hospital, a rural health clinic, a migrant health center, an Indian Health Service, an Indian health center, a Native Hawaiian health center or in an acute care or long-term care facility.

(2) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(c) LOAN REPAYMENT.—

(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

(A) 15 percent of the total amount of Stafford loans incurred by the student borrower during such borrower's last 2 years of undergraduate education for the first or second year of service in which such borrower meets the requirements described in subsection (a);

(B) 20 percent of such total amount for such third or fourth year of service; and

(C) 30 percent of such total amount for such fifth year of service.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the refunding of any repayment of a Stafford loan.

(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

(4) SPECIAL RULE.—In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a teaching certificate, the Secretary is authorized to assume the obligation to repay the total amount of Stafford loans incurred for a maximum of 2 academic years in returning to an institution of higher education for the purpose of obtaining a teaching certificate or additional certification. Such Stafford loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

(5) INELIGIBILITY OF NATIONAL SERVICE EDUCATIONAL AWARD RECIPIENTS.—No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

(d) REPAYMENT TO ELIGIBLE LENDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of Stafford loans which are subject to repayment pursuant to this section for such year.

(e) APPLICATION FOR REPAYMENT.—

(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

(2) CONDITIONS.—An eligible individual may apply for repayment after completing each year of qualifying service. The borrower shall receive forbearance while engaged in qualifying service unless the borrower is in deferment while so engaged.

(f) DEFINITIONS.—For the purpose of this section the term "eligible lender" has the same meaning given such term in section 435(d).

(g) EVALUATION.—

(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the program assisted under this part on the fields of teaching, nursing, and community service.

(2) COMPETITIVE BASIS.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

(3) CONTENTS.—The evaluation described in this section shall—

(A) assess whether the program assisted under this section has brought into teaching, nursing, and community service a significant number of highly capable individuals who otherwise would not have entered such fields;

(B) assess whether a significant number of students perform the service described in subsection (b) or opt to repay the loans instead of remaining in the career for which such student received loan repayment under this section;

(C) identify the barriers to the effectiveness of the program assisted under this section;

(D) assess the cost-effectiveness of such program in improving teacher, nursing, and community service worker quality and quantity and the ways to improve the cost-effectiveness of such program;

(E) identify the reasons for which participants in the program have chosen to take part in such program; and

(F) identify other areas of community service or employment which may serve as appropriate methods of loan repayment.

(4) INTERIM EVALUATION REPORTS.—The Secretary shall prepare and submit to the President and the Congress such interim reports on the evaluation described in this section as the Secretary deems appropriate, and shall submit such a final report by January 1, 1997.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1078–10) Enacted July 23, 1992, P.L. 102–325, sec. 422, 106 Stat. 541; amended September 21, 1993, P.L. 103–82, sec. 102(c)(2), 107 Stat. 824; amended December 20, 1993, P.L. 103–208, sec. 2(c)(47)–(51), (m), 107 Stat. 2467, 2486.

SEC. 429. CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE.

(a) LOAN-BY-LOAN INSURANCE.—

(1) AUTHORITY TO ISSUE CERTIFICATES ON APPLICATION.—If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) EFFECTIVENESS OF CERTIFICATE.—Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may

be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) CONTENTS OF APPLICATIONS.—An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) COMPREHENSIVE INSURANCE COVERAGE CERTIFICATE.—

(1) ESTABLISHMENT OF SYSTEM BY REGULATION.—In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) UNCOVERED LOANS.—If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such

insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) CHARGES FOR FEDERAL INSURANCE.—The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 430(a).

(d) ASSIGNABILITY OF INSURANCE.—The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) CONSOLIDATION NOT TO AFFECT INSURANCE.—The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

(20 U.S.C. 1079) Enacted Nov. 8, 1965, P.L. 89–329, sec. 429, 79 Stat. 1243; amended October 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2123, 2124, 2125; amended October 3, 1980, P.L. 96–374, sec. 1351, 94 Stat. 1503; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1395; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 430. DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM.

(a) NOTICE TO SECRETARY AND PAYMENT OF LOSS.—Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

(b) EFFECT OF PAYMENT OF LOSS.—Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(c) FORBEARANCE NOT PRECLUDED.—Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obiigation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

(d) CARE AND DILIGENCE REQUIRED OF HOLDERS.—Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) DEFAULT RATE OF LENDERS, HOLDERS, AND GUARANTY AGENCIES.—

(1) IN GENERAL.—The Secretary shall annually publish a list indicating the cohort default rate (determined in accordance with section 435(m)) for each originating lender, subsequent holder, and guaranty agency participating in the program assisted under this part and an average cohort default rate for all institutions of higher education within each State.

(2) REGULATIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(3) RATE ESTABLISHMENT AND CORRECTION.—The Secretary shall establish a cohort default rate for lenders, holders, and guaranty agencies (determined consistent with section 435(m)), except that the rate for lenders, holders, and guaranty agencies shall not reflect any loans issued in accordance with section 428(j).The Secretary shall allow institutions, lenders, holders, and guaranty agencies the opportunity to correct such cohort default rate information.

(20 U.S.C. 1080) Enacted Nov. 8, 1965, P.L. 89–329, sec. 430, 79 Stat. 1244; amended Oct. 16, 1968, P.L. 90–575, sec. 113, 82 Stat. 1021; amended June 23, 1972, P.L. 92–318, sec. 132B(c), 86 Stat. 262; amended October 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2125, 2126; amended June 15, 1977, P.L. 95–43, sec. 1(a)(33), 91 Stat. 216; amended October 3, 1980, P.L. 96–374, secs. 416(a)(1), (b), 422, 1391, 94 Stat. 1421, 1422, 1432, 1503; amended April 7, 1986, P.L. 99–272, secs. 16014(a)(2), 16022, 100 Stat. 341, 349; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1397; amended July 23, 1992, P.L. 102–325, sec. 423, 106 Stat. 543; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 430A. REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION.

(a) AGREEMENTS TO EXCHANGE INFORMATION.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such organizations, with respect to any loan under this part that has not been repaid by the borrower—

(1) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

(b) ADDITIONAL INFORMATION.—Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

(c) CONTENTS OF AGREEMENTS.—Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(d) CONTRACTOR STATUS OF PARTICIPANTS.—A guaranty agency, eligible lender, or subsequent holder or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5, United States Code.

(e) DISCLOSURE TO INSTITUTIONS.—The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended. To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.

(f) DURATION OF AUTHORITY.—Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty;

(2) 7 years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to the consumer reporting agency; or

(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years from the date the loan entered default such subsequent time.

(20 U.S.C. 1080a) Enacted April 7, 1986, P.L. 99-272, sec. 16023, 100 Stat. 349; amended May 23, 1986, P.L. 99-320, sec. (c), 100 Stat. 491; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1398; amended June 3, 1987, P.L. 100-50, sec. 10(v), 101 Stat. 346; amended July 23, 1992, P.L. 102-325, sec. 424, 106 Stat. 543; amended December 20, 1993, P.L. 103-208, sec. 2(c)(52), (m), 107 Stat. 2467, 2486.

SEC. 431. INSURANCE FUND.

(a) ESTABLISHMENT.—There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 422, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) BORROWING AUTHORITY.—If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 428(c), the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(20 U.S.C. 1081) Enacted Nov. 8, 1965, P.L. 89–329, sec. 431, 79 Stat. 1245; amended Aug. 3, 1968, P.L. 90–460, sec. 3, 82 Stat. 638; amended October 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2126, 2127; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1400; amended June 3, 1987, P.L. 100–50, sec. 10(w), 101 Stat. 346; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 432. LEGAL POWERS AND RESPONSIBILITIES.

(a) GENERAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part, including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any

vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 428(c); and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted accounting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted Government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c) DATA COLLECTION.—

(1) COLLECTION BY CATEGORY OF LOAN.—(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating

to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2) COLLECTION AND REPORTING REQUIREMENTS.—(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) INSTITUTIONAL, PUBLIC, OR NONPROFIT LENDERS.—For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d) DELEGATION.—

(1) REGIONAL OFFICES.—The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

(2) DELEGABLE FUNCTIONS.—The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under section 432(a)), and recommending litigation with respect to any such claim.

(e) USE OF INFORMATION ON BORROWERS.—Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

(f) AUDIT OF FINANCIAL TRANSACTIONS.—

(1) COMPTROLLER GENERAL AND INSPECTOR GENERAL AUTHORITY.—The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 428(b);

(B) any eligible lender as defined in section 435(d)(1)(D), (F), or (H);

(C) a representative sample of eligible lenders under this part, upon the request of the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Human Resources of the Senate, with respect to the payment of the special allowance under section 438 in order to evaluate the program authorized by this part; and

(D) any Authority required to file a plan for doing business under section 438(d).

(2) ACCESS TO RECORDS.—For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D) of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, United States Code, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General.

(3) DEFINITION OF RECORDS.—For the purpose of this subsection, the term "record" includes any information, document, report, answer, account, paper, or other data or documentary evidence.

(4) AUDIT PROCEDURES.—In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.

(g) Civil Penalties.—

(1) Authority to impose penalties.—Upon determination, after reasonable notice and opportunity for a hearing, that a lender or a guaranty agency—

(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

(2) Limitations.—No civil penalty may be imposed under paragraph (1) of this subsection unless the Secretary determines that—

(A) the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from a violation, failure, or misrepresentation that is material; and

(B) the lender or guaranty agency knew or should have known that its actions violated or failed to carry out the provisions of this part or the regulations thereunder.

(3) Correction of failure.—A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the notification by the Secretary under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

(4) Consideration as single violation.—For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency, and occurring prior to notification by the Secretary under that paragraph, shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both. The Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

(5) Assignees not liable for violations by others.—If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

(6) Compromise.—Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the viola-

tion, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

(h) AUTHORITY OF THE SECRETARY TO IMPOSE AND ENFORCE LIMITATIONS, SUSPENSIONS, AND TERMINATIONS.—

(1) IMPOSITION OF SANCTIONS.—(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

(i) has substantially failed—

(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

(II) to make the reports or statements under section 428(a)(4), or

(III) to pay the required loan insurance premiums to any guaranty agency, or

(ii) has engaged in—

(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

(II) the practice of making loans that violate the certification for eligibility provided in section 428,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

(i) exercise the necessary care and diligence,

(ii) comply with the requirements described in subparagraph (A)(i), or

(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

(2) REVIEW OF SANCTIONS ON LENDERS.—(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(U) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(U) shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(U) and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(3) REVIEW OF SANCTIONS ON ELIGIBLE INSTITUTIONS.—(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(T) within 60 days after receipt by the Secretary of a notice from the guaranty of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(T) shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(T) and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(i) AUTHORITY TO SELL DEFAULTED LOANS.—In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

(j) AUTHORITY OF THE SECRETARY TO TAKE EMERGENCY ACTIONS AGAINST LENDERS.—

(1) IMPOSITION OF SANCTIONS.—If the Secretary—

(A) receives information, determined by the Secretary to be reliable, that a lender is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation;

(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (h);

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the lender (by registered mail, return receipt requested), take emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to the lender.

(2) LENGTH OF EMERGENCY ACTION.—An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the lender under subsection (h) before the expiration of that period.

(3) OPPORTUNITY TO SHOW CAUSE.—The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.

(k) PROGRAM OF ASSISTANCE FOR BORROWERS.—

(1) IN GENERAL.—The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this title, including providing employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

(2) PUBLICATION.—The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

(3) RECOMMENDATION.—Within 1 year after the date of enactment of the Higher Education Amendments of 1992, the Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to statutes that could be made in order to further encourage such efforts.

(l) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURES.—

(1) IN GENERAL.—The Secretary shall, by regulation developed in consultation with guaranty agencies, lenders, institutions of higher education, secondary markets, students, third party servicers and other organizations involved in providing loans under this part, prescribe standardized forms and procedures regarding—

(A) origination of loans;
(B) electronic funds transfer;
(C) guaranty of loans;
(D) deferments;
(E) forbearance;
(F) servicing;
(G) claims filing;
(H) borrower status change; and
(I) cures.

(2) SPECIAL RULES.—(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be designed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.

(3) SIMPLIFICATION REQUIREMENTS.—Such regulations shall include—

(A) standardization of computer formats, forms design, and guaranty agency procedures relating to the origination, servicing, and collection of loans made under this part;

(B) authorization of alternate means of document retention, including the use of microfilm, microfiche, laser disc, compact disc, and other methods allowing the production of a facsimile of the original documents;

(C) authorization of the use of computer or similar electronic methods of maintaining records relating to the performance of servicing, collection, and other regulatory requirements under this Act; and

(D) authorization and implementation of electronic data linkages for the exchange of information to and from lenders, guarantors, institutions of higher education, third party servicers, and the Department of Education for student status confirmation reports, claim filing, interest and special allowance billing, deferment processing, and all other administrative steps relating to loans made pursuant to this part where using electronic data linkage is feasible.

(4) ADDITIONAL RECOMMENDATIONS.—The Secretary shall review regulations prescribed pursuant to paragraph (1) and seek additional recommendations from guaranty agencies, lenders, institutions of higher education, students, secondary markets, third party servicers and other organizations involved in providing loans under this part, not less frequently than an-

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nually, for additional methods of simplifying and standardizing the administration of the programs authorized by this part.

(m) COMMON FORMS AND FORMATS.—

(1) COMMON GUARANTEED STUDENT LOAN APPLICATION FORM AND PROMISSORY NOTE.—

(A) IN GENERAL.—The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe a common application form and promissory note to be used for applying for loans under part B of this title.

(B) REQUIREMENTS.—The form prescribed by the Secretary shall—

(i) use clear, concise, and simple language to facilitate understanding of loan terms and conditions by applicants;

(ii) be formatted to require the applicant to clearly indicate a choice of lender; and

(iii) permit, to the maximum extent practicable, application for any loan under part B.

(C) APPROVAL OF FORM.—The Secretary shall approve a form for use not later than 360 days after the date of enactment of the Higher Education Amendments of 1992.

(D) SPECIAL RULE.—Nothing in this section shall be construed to limit the development of electronic forms and procedures.

(2) COMMON DEFERMENT FORM.—The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under part B of this title, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this title.

(3) COMMON REPORTING FORMATS.—The Secretary shall promulgate standards including necessary rules, regulations (including the definitions of all relevant terms), and procedures so as to require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats, so as to permit the direct comparison of data submitted by individual lenders, servicers, or guaranty agencies.

(n) DEFAULT REDUCTION MANAGEMENT.—

(1) AUTHORIZATION.—There are authorized to be appropriated $25,000,000 for fiscal year 1993 and each of the four succeeding fiscal years, for the Secretary to expend for default reduction management activities for the purposes of establishing a performance measure that will reduce defaults by 5 percent relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

(2) ALLOWABLE ACTIVITIES.—Allowable activities for which such funds shall be expended by the Secretary shall include the following: (A) program reviews; (B) audits; (C) debt management programs; (D) training activities; and (E) such other

management improvement activities approved by the Secretary.

(3) Plan for use required.—The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section to accomplish the 5 percent reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report the Secretary's findings and activities concerning the expenditure of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following:

(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

(B) plans and a schedule for achieving the established performance goal;

(C) recommended legislative or regulatory changes necessary to achieve the goal; and

(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committees of the House of Representatives and the Senate and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(o) Consequences of Guaranty Agency Insolvency.—In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency, in accordance with insurance requirements no more stringent than those of the guaranty agency. Such arrangements shall continue until the Secretary is satisfied that the insurance obligations have been transferred to another guarantor who can meet those obligations or a successor will assume the outstanding insurance obligations.

(p) Reporting Requirement.—All officers and directors, and those employees and paid consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State licensing agencies or boards, State postsecondary reviewing entities designated under subpart 1 of part H, and entities acting as secondary markets (including the Student Loan Marketing Association), who are engaged in making decisions as to the administration of any program or funds under this title or as to the eligibility of any entity or individual to participate under this title, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this title.

(20 U.S.C. 1082) Enacted Nov. 8, 1965, P.L. 89–329, sec. 432, 79 Stat. 1246; amended Aug. 3, 1968, P.L. 90–460, sec. 3, 82 Stat. 638; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2127, 2128, 2129; amended October 3, 1980, P.L.

96–374, secs. 416(c), 1391, 94 Stat. 1421, 1503; amended April 7, 1986, P.L. 99–272, sec. 16024, 100 Stat. 351; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1401; amended June 3, 1987, P.L. 100–50, sec. 10(x), (y), 101 Stat. 346; amended December 19, 1989, P.L. 101–239, sec. 2001(a), 103 Stat. 2118; amended July 23, 1992, P.L. 102–325, sec. 425, 106 Stat. 543; amended December 20, 1993, P.L. 103–208, sec. 2(k)(2), (3), (m), 107 Stat. 2485, 2486.

SEC. 433. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.

(a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part (other than a loan made under section 428C), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include—

(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;

(2) the name of the eligible lender, and the address to which communications and payments should be sent;

(3) the principal amount of the loan;

(4) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(5) the stated interest rate on the loan;

(6) the yearly and cumulative maximum amounts that may be borrowed;

(7) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(8) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

(9) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(10) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(11) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

(12) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a credit bureau or credit reporting agency;

(13) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(14) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. For any loan made, insured, or guaranteed under this part, other than a loan made under section 428B or 428C, such disclosure required by this subsection shall be made not less than 60 days[1] nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period:

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options, except that such explanation is not required when the loan being made is a consolidation loan under section 428C;

(8) except as provided in subsection (e), the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) COST OF DISCLOSURE AND CONSEQUENCES OF NONDISCLOSURE.—Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a guaranty agency under a contract of guaranty. Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act with regard to loans made under this part. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

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[1] Effective February 20, 1994, section 2(c)(53) of the Higher Education Technical Amendments of 1993 strikes "60 days" and inserts "30 days".

(d) SEPARATE STATEMENT.—Each eligible lender shall, at the time such lender notifies a borrower of approval of a loan which is insured or guaranteed under this part, provide the borrower with a separate paper which summarizes (in plain English) the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a credit bureau. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

(e) SPECIAL DISCLOSURE RULES ON SLS LOANS AND PLUS LOANS AND UNSUBSIDIZED LOANS.—Loans made under sections 428A, 428B, and 428H shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(8) if the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower is in school. Such sample projections shall disclose the cost to the student of capitalizing—

(1) principal and interest; and

(2) interest only.

(20 U.S.C. 1083) Enacted Nov. 8, 1965, P.L. 89–329, sec. 433, 78 Stat. 1247; amended Oct. 16, 1968, P.L. 90–575, sec. 116, 82 Stat. 102; amended June 23, 1972; P.L. 92–318; sec. 132(c), 86 Stat. 261; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2129; amended June 15, 1977, P.L. 95–43, sec. 1(a)(34), 91 Stat. 216; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1406; amended June 3, 1987, P.L. 100–50, sec. 10(z), 101 Stat. 346; amended July 23, 1992, P.L. 102–325, sec. 426, 106 Stat. 548; amended December 20, 1993, P.L. 103–208, sec. 2(c)(53), (54), (k)(4), (m), 107 Stat. 2468, 2485, 2486.

SEC. 434. PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS.

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(B).

(20 U.S.C. 1084) Enacted Nov. 8, 1965, P.L. 89–329, sec. 434, 79 Stat. 1247; amended Oct. 16, 1969, P.L. 90–575, sec. 116, 82 Stat. 1024; amended June 23, 1972, P.L. 92–318, sec. 132D(e), 86 Stat 264; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2129, 2130; amended October 17, 1986, P.L. 99–448, sec. 402(a), 100 Stat. 1408; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 435. DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.

As used in this part:

(a) ELIGIBLE INSTITUTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "eligible institution" means an institution of higher education, as defined in section 481, except that, for the purposes of sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i), an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this title and includes any institution ineligible for participation in any program under this part pursuant to paragraph (2) of this subsection.

(2) INELIGIBILITY BASED ON HIGH DEFAULT RATES.—(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B); or

(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During such appeal, the Secretary may permit the institution to continue to participate in a program under this part.

(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

(i) 35 percent for fiscal year 1991 and 1992;

(ii) 30 percent for fiscal year 1993; and

(iii) 25 percent for any succeeding fiscal year.

(C) Until July 1, 1994, this paragraph shall not apply to any institution that is—

(i) a part B institution within the meaning of section 322(2) of this Act;

(ii) a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

(iii) a Navajo Community College under the Navajo Community College Act.

(3)[1] APPEALS BASED UPON ALLEGATIONS OF IMPROPER LOAN SERVICING.—An institution that—

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[1] Section 5(b)(8) of the Higher Education Technical Amendments of 1993 provides as follows:

(8) COHORT DEFAULT RATE DETERMINATIONS.—The amendments made to subsection (a)(3) and (m)(1)(B) of section 435 of this Act shall apply with respect to the determina-

Continued

(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 428A(a)(2); or

(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B).

(d)[1] ELIGIBLE LENDER.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (6), the term "eligible lender" means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to the enactment of the Higher Education Amendments of 1992, or (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part;

(B) a pension fund as defined in the Employee Retirement Income Security Act;

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

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tion (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year.

[1] Subsections (b) and (c) were repealed by P.L. 102–325, sec. 427(b)(1) and (2), 106 Stat. 549.

(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under sections 428A(d), 428B(d), 428C, and 439(q), the Student Loan Marketing Association;

(H) for purposes of making loans under sections 428(h) and 428(j), a guaranty agency;

(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)); and

(J) for purpose of making loans under section 428C, any nonprofit private agency functioning in any State as a secondary market.

(2) ADDITIONAL REQUIREMENTS OF ELIGIBLE INSTITUTIONS.—To be an eligible lender under this part, an eligible institution—

(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

(B) shall not be a home study school;

(C) shall make loans to not more than 50 percent of the undergraduate students at the institution;

(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

(E) shall not have a cohort default rate (as defined in section 435(m)) greater than 15 percent; and

(F) shall use the proceeds from special allowance payments and interest payments from borrowers for need-based grant programs, except for reasonable reimbursement for direct administrative expenses;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after the date of enactment of the Higher Education Amendments of 1986 and prior to July 1, 1987.

(3) DISQUALIFICATION FOR HIGH DEFAULT RATES.—The term "eligible lender" does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 428(a)(1) made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in section 435(m).

(4) WAIVER OF DISQUALIFICATION.—Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(5) DISQUALIFICATION FOR USE OF CERTAIN INCENTIVES.—The term "eligible lender" does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has after the date of enactment of this paragraph—

(A) offered, directly or indirectly, points, premiums, payments, or other inducements, to any educational institution or individual in order to secure applicants for loans under this part;

(B) conducted unsolicited mailings to students of student loan application forms, except to students who have previously received loans under this part from such lender;

(C) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

(D) engaged in fraudulent or misleading advertising.

(6) REBATE FEE REQUIREMENT.—To be an eligible lender under this part, an eligible lender shall pay rebate fees in accordance with section 428C(f).

(e) LINE OF CREDIT.—The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(f) DUE DILIGENCE.—The term "due diligence" requires the utilization by a lender, in the servicing and collection of loans insured under this part, of servicing and collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(i)[1] HOLDER.—The term "holder" means an eligible lender who owns a loan.

(j) GUARANTY AGENCY.—The term "guaranty agency" means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b).

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[1] Section 427(f) amended section 435 by striking subsections (g), (h), and (n), but failed to redesignate remaining subsections.

(k) INSURANCE BENEFICIARY.—The term "insurance beneficiary" means the insured or its authorized representative assigned in accordance with section 429(d).

(l) DEFAULT.—Except as provided in subsection (m), the term "default" includes only such defaults as have existed for (1) 180 days in the case of a loan which is repayable in monthly installments, or (2) 240 days in the case of a loan which is repayable in less frequent installments.

(m) COHORT DEFAULT RATE.—

(1) IN GENERAL.—(A) Except as provided in paragraph (2), the term "cohort default rate" means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 428, 428A, or 428H, received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans)[1] received for attendance at that institution in that fiscal year who default before the end of the following fiscal year.[2]

(B) In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3), exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.

(C) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the percentage of such current and former students who entered repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans)[2] in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the year in which they entered repayment.

(2) SPECIAL RULES.—(A) In the case of a student who has attended and borrowed at more than one school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

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[1] The parenthetical phrases in subparagraphs (A) and (C), added by section 4046(b) of P.L. 103–66, are effective July 1, 1994.

[2] Effective October 1, 1994, section 2(c)(60)(A) of the Higher Education Technical Amendments of 1993 inserts at the end the following new sentence: "The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.".

(C) Any loan which has been rehabilitated before the end of such following fiscal year is not considered as in default for the purposes of this subsection.

(D) For the purposes of this subsection, a loan made in accordance with section 428A (or the portion of a loan made under section 428C that is used to repay a loan made under section 428A) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 428A (or a loan made under section 428C a portion of which is used to repay a loan made under section 428A) shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

(3) REGULATIONS TO PREVENT EVASIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(4) COLLECTION AND REPORTING OF COHORT DEFAULT RATES.—(A) The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including (i) 4-year public institutions, (ii) 4-year private institutions, (iii) 2-year public institutions, (iv) 2-year private institutions, (v) 4-year proprietary institutions, (vi) 2-year proprietary institutions, and (vii) less than 2-year proprietary institutions.

(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.

(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.

(o)[1] ECONOMIC HARDSHIP.—

(1) IN GENERAL.—For purposes of this part and part E, a borrower shall be considered to have an economic hardship if—

(A) such borrower is working full-time and is earning an amount which does not exceed the greater of—

(i) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

(ii) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 673(2) of the Community Service Block Grant Act; or

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[1] Subsection (n) repealed by sec. 427(f) of P.L. 102–325. See footnote 1 on page 195.

(B) such borrower meets such other criteria as are established by the Secretary by regulation in accordance with paragraph (2).

(2) CONSIDERATIONS.—In establishing criteria for purposes of paragraph (1)(B), the Secretary shall consider the borrower's income and debt-to-income ratio as primary factors.

(20 U.S.C. 1085) Enacted Nov. 8, 1965, P.L. 89–329, sec. 435, 79 Stat. 1247; as amended Oct. 29, 1966, P.L. 89–698, sec. 204, 80 Stat. 1072; amended Oct. 16, 1968, P.L. 90–575, secs. 116, 118, 82 Stat. 1023–26; amended October 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2130, 2131; amended June 15, 1977, P.L. 95–43, sec. 1 (a)(35), (a)(36), 91 Stat. 216; amended October 3, 1980, P.L. 96–374, secs. 412(e), 421(e)(2), 1391, 94 Stat. 1418, 1432, 1503; amended April 7, 1986, P.L. 99–272, secs. 16017(b)(2), 16020, 100 Stat. 343, 349; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1408; amended June 3, 1987, P.L. 100–50, sec. 10(aa), 101 Stat. 347; amended December 19, 1989, P.L. 101–239, secs. 2003(a)(2), 2007(a)(2), 103 Stat. 2113 and 2120; amended November 5, 1990, P.L. 101–508, sec. 3004(a), 104 Stat. 1388–26; amended November 8, 1990, P.L. 101–542, sec. 301, 104 Stat. 2387–2388; amended April 9, 1991, P.L. 102–26, sec. 2(a)(1), 105 Stat. 123; amended July 23, 1992, P.L. 102–325, sec. 416(e)(2), and 427, 106 Stat. 519, 549; amended August 10, 1993, P.L. 103–66, sec. 4046(b)(1), 4106(b), 107 Stat. 362, 368; amended December 20, 1993, P.L. 103–208, sec. 2(c)(55)–(62), (m), 107 Stat. 2468–69, 2486.

SEC. 436. DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM.

(a) AUTHORITY.—The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Secretary for the purposes of this title, (2) to enter into such agreements with the Secretary, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

(b) BINDING EFFECT ON MINORS.—Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid vote or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

(c) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

(20 U.S.C. 1086) Enacted Nov. 3, 1966, P.L. 89–752, sec. 12, 80 Stat. 1244; amended Oct. 16, 1968, P.L. 90–575, sec. 116, 82 Stat. 1024; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2132, 2133; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1413; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 437. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW.

(a) REPAYMENT IN FULL FOR DEATH AND DISABILITY.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the

Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) Payment of Claims on Loans in Bankruptcy.—The Secretary shall pay to the holder of a loan described in section 428(a)(1) (A) or (B), 428A, 428B, 428C, or 428H, the amount of the unpaid balance of principal and interest owed on such loan—

(1) when the borrower files for relief under chapter 12 or 13 of title 11, United States Code;

(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.

(c) Discharge.—

(1) In general.—If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part H.

(2) Assignment.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

(3) Eligibility for additional assistance.—The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

(4) Special rule.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this title for which the borrower would be otherwise eligible (but for the default on such discharged loan). The amount discharged under this subsection shall be treated the same as loans under section 465(a)(5) of this title.

(5) Reporting.—The Secretary shall report to credit bureaus with respect to loans which have been discharged pursuant to this subsection.

(d) Repayment of Loans to Parents.—If a student on whose behalf a parent has received a loan described in section 428B dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(20 U.S.C. 1087) Enacted Oct. 16, 1968, P.L. 90–575, sec. 113, 82 Stat. 1020; amended June 23, 1972, P.L. 92–318, sec. 132D, 86 Stat. 263; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2133; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1414; amended July 23, 1992, P.L. 102–325, sec. 428, 106 Stat. 551; amended December 20, 1993, P.L. 103–208, sec. 2(c)(63)–(65), (m), 107 Stat. 2469, 2486.

SEC. 437A. DEBT MANAGEMENT OPTIONS.

(a) Program Authority.—For the purpose of offering additional debt management options, the Secretary is authorized, to the extent of funds appropriated—

(1) to acquire from eligible holders the notes of borrowers under this part (other than section 428B) who are considered to be at high risk of default and who submit a request to the Secretary for an alternative repayment option;

(2) to offer such borrowers one or more alternative repayment options, which may include graduated or extended repayment and which shall, subject to subsection (b)(2), include an income contingent repayment option established in accordance with subsection (b); and

(3) to enter into contracts or other agreements with private firms or other agencies of the Government as necessary to carry out the purposes of this section.

(b) Income Contingent Repayment Option.—

(1) Regulations.—For the purposes of subsection (a)(2), the Secretary shall, by regulation, establish the terms and conditions for an income contingent repayment option. Such regulations shall specify the schedules under which income will be assessed for repayment of loans, shall permit the discharge of the remaining obligation on the loan not later than 25 years after the commencement of income contingent repayment, and may provide for the potential collection of amounts in excess of the principal and interest owed on the original loan or loans.

(2) Collection mechanism determination required.—Such regulations shall not be effective unless the Secretary publishes a finding that—

(A) the Secretary has, pursuant to subsection (a)(3), established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment option established under paragraph (1); and

(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

(c) Determinations of High Risk of Default.—In making determinations under subsection (a)(1), the Secretary shall—

(1) consider the ratio of part B debt repayment to income; or

(2) establish, by regulation, such other indicators of high risk as the Secretary considers appropriate.

(d) Loan Limitation.—Not more than $200,000,000 may be used to acquire loans under this section in any fiscal year.

(20 U.S.C. 1087–0) Enacted July 23, 1992, P.L. 102–325, sec. 429, 106 Stat. 552; amended December 20, 1993, P.L. 103–208, sec. 2(c)(66)–(68), (m), 107 Stat. 2469, 2486.

SEC. 438. SPECIAL ALLOWANCES.

(a) FINDINGS.—In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b) COMPUTATION AND PAYMENT.—

(1) QUARTERLY PAYMENT BASED ON UNPAID BALANCE.—A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) RATE OF SPECIAL ALLOWANCE.—(A) Subject to subparagraphs (B), (C), (D), (E), and (F) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.10 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 427A(f). [1]

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this division, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.10 percent" . Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The quarterly rate of the special allowance set under division (i) of this subparagraph shall not be less than 9.5 percent minus the applicable interest rate on such loans, divided by 4.

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[1] So in law. Should refer to section 427A(i).

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, the income from which is excluded from gross income under the Internal Revenue Code of 1986, shall be the quarterly rate of the special allowance established under subparagraph (A), (E), or (F), as the case may be. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

(C)(i) In the case of loans made before October 1, 1992, pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12 percent.

(ii) In the case of loans disbursed on or after October 1, 1992, pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under section 427A(c)(4)(B) exceeds—

(I) 11 percent in the case of a loan under section 428A; or

(II) 10 percent in the case of a loan under section 428B.

(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.10 percent".

(ii) For the purpose of division (i) of this subparagraph, the term "qualified State obligation" means—

(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(E) In the case of any loan for which the applicable rate of interest is described in section 427A(g)(2), subparagraph (A)(iii) shall be applied by substituting "2.5 percent" for "3.10 percent".

(F) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable rate of interest is determined under section 427A(h) shall be computed (i) by determining the applicable bond equivalent rate of the security with a comparable maturity, as established by the Secretary, (ii) by subtracting the applicable interest rates on such loans from such applicable bond equivalent rate, (iii) by adding 1.0 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 427A(f).[1]

(3) CONTRACTUAL RIGHT OF HOLDERS TO SPECIAL ALLOWANCE.—The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

(4) PENALTY FOR LATE PAYMENT.—(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) DEFINITION OF ELIGIBLE LOAN.—As used in this section, the term "eligible loan" means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 428(a);

(ii) which is made under section 428A, 428B, 428C, 428H, or 439(o); or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

As used in this section, the term "eligible loan" includes all loans subject to section 428I.[2]

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[1] So in law. Should refer to section 427A(i).

[2] Indentation so in law.

(6) REGULATION OF TIME AND MANNER OF PAYMENT.—The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(7) USE OF AVERAGE QUARTERLY BALANCE.—The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.

(c) ORIGINATION FEES FROM STUDENTS.—

(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) AMOUNT OF ORIGINATION FEES.—Subject to paragraph (6) of this subsection, with respect to any loan (other than loans made under sections 428C[1] and 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 3.0[1] percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

(3) RELATION TO APPLICABLE INTEREST.—Such origination fee shall not be taken into account for purposes of determining compliance with section 427A.

(4) DISCLOSURE REQUIRED.—The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(5) PROHIBITION ON DEPARTMENT COMPELLING ORIGINATION FEE COLLECTIONS BY LENDERS.—Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 428(a)(3)(A) or for special allowances under sub-

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[1] The amendments made by section 4102(a) of P.L. 103-66 to this subsection (changing the origination fee maximum from 5 to 3 percent and applying them to SLS and PLUS loans) are effective July 1, 1994.

section (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before the enactment of this paragraph, together with interest thereon.

(6) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3.0[1] percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

(7) DISTRIBUTION OF ORIGINATION FEES.—All origination fees collected pursuant to this section on loans authorized under section 428A or 428B shall be paid to the Secretary by the lender and deposited in the fund authorized under section 431 of this part.

(d) LOAN FEES FROM LENDERS.—

(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the Secretary shall reduce the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder of a loan by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess amount from subsequent quarters' payments until the total amount has been deducted.

(2) AMOUNT OF LOAN FEES.—With respect to any loan under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.

(3) DISTRIBUTION OF LOAN FEES.—The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 431.

(e) LENDING FROM PROCEEDS OF TAX EXEMPT OBLIGATIONS.—

(1) PLAN FOR DOING BUSINESS REQUIRED.—In order for the holders of loans any portion of which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1986, to be eligible to receive a special allowance under subsection (b)(2) of this section, the Authority shall submit to the Governor of the State, and to the guaranty agency determined by the Secretary to be the principal guaranty agency for the State, a plan for doing business. The Governor shall, after consultation with the guaranty agency, approve or disapprove the plan within 30 days of the receipt of the proposed plan from the Authority. Such plan shall also be transmitted to the Secretary within 60 days after approval.

(2) CONTENTS OF PLAN.—Each such plan shall contain provisions designed to assure that—

(A) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(B) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from, any agency that would contract to service and collect the loans of the Authority;

(C) student loans will not be purchased from participating lenders at a premium amounting to more than 1 percent of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

(D) the Authority will, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

(E) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(F) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

(3) NONDISCRIMINATION.—In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1986, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

(4) REPORT BY THE SECRETARY.—The Secretary shall, no later than September 30, 1988, and each succeeding September 30th, submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate specifying—

(A) the amount of student loan credit provided through the use of tax-exempt obligations for the most recent fiscal year;

(B) an assessment of the impact of the availability of such financing on the availability of student credit in the areas served by the authorities issuing such obligations;

(C) an assessment of the need for additional tax-exempt financing for student credit for the next fiscal year; and

(D) any other information determined by the Secretary to be relevant to the purposes of the report.

(f) REGULATIONS TO PREVENT DENIAL OF LOANS TO ELIGIBLE STUDENTS.—The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

(20 U.S.C. 1087–1) Enacted June 23, 1972, P.L. 92–318, sec. 132E(a), 86 Stat. 264; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2133, 2134, 2135, 2136; amended June 15, 1977, P.L. 95–43, sec. 1(a)(37) (A), (B), (C), (D), (E), (F), 91 Stat. 216, 217; amended October 3, 1980, P.L. 96–374, sec. 420, 94 Stat. 1425; amended August 13, 1981, P.L. 97–35, secs. 532(b)(4), 534(b), 536(a), 95 Stat. 452, 453, 454, 455, 456; amended August 15, 1983, P.L. 98–79, sec. 7, 97 Stat. 482; amended April 7, 1986, P.L. 99–272, secs. 16013(d), 16017(b)(3), (c), 100 Stat. 340, 347; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1414; amended June 3, 1987, P.L. 100–50, sec. 10(d)(2), (bb), (cc), 101 Stat. 342, 347; amended July 18, 1988, P.L. 100–369, sec. 7(c), 102 Stat. 837; amended July 23, 1992, P.L. 102–325, sec. 430, 106 Stat. 553; amended August 10, 1993, P.L. 103–66, secs. 4102, 4103, 4105, and 4111, 107 Stat. 366, 367, 368, and 370; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 439. STUDENT LOAN MARKETING ASSOCIATION.

(a) PURPOSE.—The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) EXEMPTION FROM STATE AND LOCAL TAXES.—The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial,

county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) APPROPRIATIONS AUTHORIZED FOR ESTABLISHMENT.—There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c) BOARD OF DIRECTORS.—

(1) COMPOSITION OF BOARD; CHAIRMAN.—(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1993—

(i) 7 of the elected directors shall be affiliated with an eligible institution; and

(ii) 7 of the elected directors shall be affiliated with an eligible lender.

(B) The President shall designate 1 of the directors to serve as Chairman.

(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director "affiliated with the eligible institution" or a director "affiliated with an eligible lender" means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

(A) an eligible institution or an eligible lender;

(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.

(d) AUTHORITY OF ASSOCIATION.—

(1) IN GENERAL.—The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 435(d)(1) (D) or (F);

(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement, or purchase at institutions of higher education of any of the following facilities (including the underlying property) and materials at an eligible institution of higher education:

(i) educational and training facilities;

(ii) housing for students and faculties;

(iii) library facilities, including the acquisition of library materials at institutions of higher education; and

(iv) related equipment, instrumentation, and furnishings for facilities and materials described in clause (i) or (iii);

except that not more than 15 percent of the value of transactions entered into under this subparagraph shall involve transactions of the type described in clause (ii);

(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 428, and except with respect to loans under subsection (o) of this section or under section 428C, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Labor and Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

(2) WAREHOUSING ADVANCES.—Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described

in clauses (B) and (C) shall be invested in additional insured student loans.

(3) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

(4) FORM OF SECURITIES.—Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(5) RESTRICTIONS ON FACILITIES AND HOUSING ACTIVITIES.—Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the second highest rating of such organization.

(e) ADVANCES TO LENDERS THAT DO NOT DISCRIMINATE.—The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) STOCK OF THE ASSOCIATION.—

(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(3) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board of Directors. Such

dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.

(g) PREFERRED STOCK.—

(1) AUTHORITY OF BOARD.—The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) RIGHTS OF PREFERRED STOCK.—The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) DEBT OBLIGATIONS.—

(1) APPROVAL BY SECRETARIES OF EDUCATION AND THE TREASURY.—The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the au-

thority contained in subsection (d)(1) (B) and (C) of this section and as to which the income is exempt from taxation under the Internal Revenue Code of 1986 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of the Internal Revenue Code of 1986.

(2) GUARANTEE OF DEBT.—The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) BORROWING AUTHORITY TO MEET GUARANTEE OBLIGATIONS.—To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) ACTION ON REQUEST FOR GUARANTEES.—Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Sec-

retary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) AUTHORITY OF TREASURY TO PURCHASE DEBT.—The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) SALE OF DEBT TO FEDERAL FINANCING BANK.—Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.

(7) OFFSET FEE.—(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal amount of each loan made, insured or guaranteed under this part that the Association holds (except for loans made pursuant to sections 428C, 439(o), or 439(q)) and that was acquired on or after the date of enactment of this paragraph.

(B) If the Secretary determines that the Association has substantially failed to comply with subsection (q), subparagraph (A) shall be applied by substituting "1.0 percent" for "0.3 percent".

(C) The Secretary shall deposit all fees collected pursuant to this paragraph into the insurance fund established in section 431.

(i) GENERAL CORPORATE POWERS.—The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(l) LAWFUL INVESTMENT INSTRUMENTS; EFFECT OF AND EXEMPTIONS FROM OTHER LAWS.—All obligations issued by the Association including those made under subsection (d)(4) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for the purpose of section 3124 of title 31, United States Code. For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31, United States Code, shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries, custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

(m) PREPARATION OF OBLIGATIONS.—In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

(n) REPORT ON OPERATIONS AND ACTIVITIES.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

(o) LOAN CONSOLIDATIONS.—

(1) IN GENERAL.—The Association or its designated agent may, upon request of a borrower, consolidate loans received under this title in accordance with section 428C.

(2) USE OF EXISTING AGENCIES AS AGENT.—The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

(p) ADVANCES FOR DIRECT LOANS BY GUARANTY AGENCIES.—

(1) IN GENERAL.—The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 428(h) and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

(2) LIMITATION.—No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q) LENDER-OF-LAST-RESORT.—

(1) ACTION AT REQUEST OF SECRETARY.—(A) Whenever the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, the Association or its designated agent shall, not later than 90 days after the date of enactment of the Student Loan Reform Act of 1993, begin making loans to such eligible borrowers in accordance with this subsection at the request of the Secretary. The Secretary may request that the Association make loans to borrowers within a geographic area or for the benefit of students attending institutions of higher education that certify, in accordance with standards established by the Secretary, that their students are seeking and unable to obtain loans.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a guaranty agency under paragraph (2)(A) of this subsection.

(2) ISSUANCE AND COVERAGE OF LOANS.—(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 435(d)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its des-

ignated agent shall begin making such loans to borrowers in such State or within an area of such State in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) TERMINATION OF LENDING.—The Association or its designated agent shall cease making loans under this subsection at such time as the Secretary determines that the conditions which caused the implementation of this subsection have ceased to exist.

(r) SAFETY AND SOUNDNESS OF ASSOCIATION.—

(1) REPORTS BY THE ASSOCIATION.—The Association shall promptly furnish to the Secretary of Education and Secretary of the Treasury copies of all—

(A) periodic financial reports publicly distributed by the Association; and

(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations.

(2) AUDIT BY SECRETARY OF THE TREASURY.—(A) The Secretary of the Treasury may—

(i) appoint auditors to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness; and

(ii) enter into contracts to obtain the services of such technical experts as the Secretary of the Treasury determines necessary and appropriate to provide technical assistance to any auditor appointed under this paragraph.

(B) Each auditor appointed under this paragraph shall conduct an audit of the Association to the extent requested by the Secretary of the Treasury and shall prepare and submit a report to the Secretary of the Treasury concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary of the Treasury.

(C) The Association shall provide full and prompt access to the Secretary of the Treasury to its books and records and other information requested by the Secretary of the Treasury.

(3) MONITORING OF SAFETY AND SOUNDNESS.—The Secretary of the Treasury shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary of the Treasury determines that the financial safety and soundness of the Association is at risk, the Secretary of the Treasury shall inform the Chairman and ranking minority member of the Committee

on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

(4) CAPITAL STANDARD.—If the capital ratio is less than 2 percent and is greater than or equal to 1.75 percent at the end of the Association's most recent calendar quarter the Association shall, within 60 days of such occurrence, submit to the Secretary of the Treasury a capital restoration plan, in reasonable detail, that the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 36 months.

(5) CAPITAL RESTORATION PLAN.—

(A) SUBMISSION, APPROVAL, AND IMPLEMENTATION.—The Secretary of the Treasury and the Association shall consult with respect to any capital restoration plan submitted pursuant to paragraph (4) and the Secretary of the Treasury shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a capital restoration plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

(B) DISAPPROVAL.—If the Secretary of the Treasury does not approve a capital restoration plan as provided in subparagraph (A), then not later than the earlier of the date the Secretary of the Treasury disapproves of such plan by written notice to the Association or the expiration of the 30-day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall submit the Association's capital restoration plan, in the form most recently proposed to the Secretary of the Treasury by the Association, together with a report on the Secretary of the Treasury's reasons for disapproval of such plan and an alternative capital restoration plan, to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury.

(C) ASSOCIATION IMPLEMENTATION AND RESPONSE.—Upon receipt of the submission by the Association, the Association shall forthwith proceed with diligence to implement the most recently proposed capital restoration plan of the Association. The Association, within 30 days after receipt from the Secretary of the Treasury of such submission, shall submit to such Chairmen and ranking minority members a written response to such submission, setting out fully the nature and extent of the Association's agreement or the disagreement with the Secretary of the Treasury with respect to the capital restoration plan submitted to the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(6) SUBSTANTIAL CAPITAL RATIO REDUCTION.—

(A) ADDITIONAL PLAN REQUIRED.—If the capital ratio is less than 1.75 percent and is greater than or equal to 1 percent at the end of the Association's most recent calendar quarter, the Association shall submit to the Secretary of the Treasury within 60 days after such occurrence a capital restoration plan (or an appropriate modification of any plan previously submitted or approved under paragraph (4)) to increase promptly its capital ratio to equal or exceed 1.75 percent. The Secretary of the Treasury and the Association shall consult with respect to any plan or modified plan submitted pursuant to this paragraph. The Secretary of the Treasury shall approve such plan or modified plan (or a modification thereof accepted by the Association) or disapprove such plan or modified plan within 30 days after such plan or modified plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a plan or modified plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan or modified plan to the best of the Association's ability.

(B) DISAPPROVAL.—If the Secretary of the Treasury disapproves a capital restoration plan or modified plan submitted pursuant to subparagraph (A), then, not later than the earlier of the date the Secretary of the Treasury disapproves of such plan or modified plan (by written notice to the Association) or the expiration of the 30-day consideration period described in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall prepare and submit an alternative capital restoration plan, together with a report on his reasons for disapproval of the Association's plan or modified plan, to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury. The Association, within 5 days after receipt from the Secretary of the Treasury of such submission, shall submit to the Chairmen and ranking minority members of such Committees, and the Secretary of the Treasury, a written response to such submission, setting out fully the nature and extent of the Association's agreement or disagreement with the

Secretary of the Treasury with respect to the disapproved plan and the alternative plan of the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(C) REVIEW BY CONGRESS; ASSOCIATION IMPLEMENTATION.—Congress shall have 60 legislative days after the date on which Congress receives the alternative plan under subparagraph (B) from the Secretary of the Treasury to review such plan. If Congress does not take statutory action with respect to any such plan within such 60-day period, the Association shall immediately proceed with diligence to implement the alternative capital restoration plan of the Secretary of the Treasury under subparagraph (B). If Congress is out of session when any such alternative plan is received, such 60-day period shall begin on the first day of the next session of Congress.

(7) ACTIONS BY SECRETARY OF THE TREASURY.—If the capital ratio of the Association does not equal or exceed 1.75 percent at the end of the Association's most recent calendar quarter, the Secretary of the Treasury may, until the capital ratio equals or exceeds 1.75 percent, take any one or more of the following actions:

(A) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the Association, except as necessary to fund student loan purchases and warehousing advances.

(B) RESTRICT GROWTH.—Restrict or eliminate growth of the Association's assets, other than student loans purchases and warehousing advances.

(C) RESTRICT DISTRIBUTIONS.—Restrict the Association from making any capital distribution.

(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the Association to issue new capital in any form and in any amount sufficient to restore at least a 1.75 percent capital ratio.

(E) LIMIT EXECUTIVE COMPENSATION.—Prohibit the Association from increasing for any executive officer any compensation including bonuses at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months and prohibiting the Board from adopting any new employment severance contracts.

(8) CRITICAL CAPITAL STANDARD.—(A) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has already submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall forthwith proceed with diligence to implement the most recently proposed plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(B) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has not submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall—

(i) within 14 days of such occurrence submit a capital restoration plan to the Secretary of the Treasury which the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 60 months; and

(ii) forthwith proceed with diligence to implement such plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(C) Immediately upon a determination under subparagraph (A) or (B) to implement a capital restoration plan, the Secretary of the Treasury shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education.

(9) ADDITIONAL REPORTS TO COMMITTEES.—The Association shall submit a copy of its capital restoration plan, modifications proposed to the Secretary of the Treasury, and proposed modifications received from the Secretary of the Treasury to the Congressional Budget Office and General Accounting Office upon their submission to the Secretary of the Treasury or receipt from the Secretary of the Treasury. Notwithstanding any other provision of law, the Congressional Budget Office and General Accounting Office shall maintain the confidentiality of information received pursuant to the previous sentence. In the event that the Secretary of the Treasury does not approve a capital restoration plan as provided in paragraph (5)(A) or (6)(A), or in the event that a capital restoration plan is modified by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), the Congressional Budget Office and General Accounting Office shall each submit a report within 30 days of the Secretary of the Treasury's submission to the Chairmen and ranking minority members as required in paragraphs (5)(B), (6)(B), and (8)(C) to such Chairmen and ranking members—

(A) analyzing the financial condition of the Association;

(B) analyzing the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8);

(C) analyzing the impact of the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), and analyzing the impact of the recommendations made pursuant to subparagraph (D) of this paragraph, on—

(i) the ability of the Association to fulfill its purpose and authorized activities as provided in this section, and

(ii) the operation of the student loan programs; and

(D) recommending steps which the Association should take to increase its capital ratio without impairing its ability to perform its purpose and authorized activities as provided in this section.

(10) REVIEW BY SECRETARY OF EDUCATION.—The Secretary of Education shall review the Secretary of the Treasury's submission required pursuant to paragraph (5)(B), (6)(B), or (8) and shall submit a report within 30 days to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor—

(A) describing any administrative or legislative provisions governing the student loan programs which contributed to the decline in the Association's capital ratio; and

(B) recommending administrative and legislative changes in the student loan programs to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio specified in paragraph (4).

(11) SAFE HARBOR.—The Association shall be deemed in compliance with the capital ratios described in paragraphs (4) and (6)(A) if the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 2 nationally recognized statistical rating organizations, determined without regard to the Association's status as a federally chartered corporation.

(12) TREATMENT OF CONFIDENTIAL INFORMATION.—Notwithstanding any other provision of law, the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office shall not disclose any information treated as confidential by the Association and obtained pursuant to this subsection. Nothing in this paragraph shall authorize the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office to withhold information from Congress, or prevent the Secretary of Education, the Congressional Budget Office, and the General Accounting Office from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3) of such section 552.

(13) DEFINITIONS.—As used in this subsection:

(A) The term "nationally recognized statistical rating organization" means any entity recognized as such by the Securities and Exchange Commission.

(B) The term "capital ratio" means the ratio of total stockholders' equity, as shown on the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

(i) the total assets of the Association, as shown on the balance sheet prepared in the ordinary course of its business; and

(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of such balance sheet—

(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap, and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items set forth in clause (ii) of this subparagraph, the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any risk weighting provisions in such measures.

(C) The term "legislative days" means only days on which either House of Congress is in session.

(20 U.S.C. 1087–2) Enacted June 23, 1972, P.L. 92–318, sec. 133(a), 86 Stat. 265, 269; amended April 21, 1976, P.L. 94–273, sec. 3(9), 90 Stat. 376; amended October 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2136–2141; amended June 15, 1977, P.L. 95–43, sec. 1(a)(38), 91 Stat. 217; amended October 3, 1980, P.L. 96–374, secs. 421, 1391, 94 Stat. 1427, 1503; amended August 13, 1981, P.L. 97–35, sec. 538, 95 Stat. 457; amended December 29, 1981, P.L. 97–115, sec. 18, 95 Stat. 1610; amended October 13, 1982, P.L. 97–301, sec. 14, 96 Stat. 1405; amended August 15, 1983, P.L. 98–79, secs. 2, 8, 97 Stat. 476, 483; amended April 7, 1986, P.L. 99–272, secs. 16017(b)(4), 16018(a)(3), 100 Stat. 347, 348; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1418; amended June 3, 1987, P.L. 100–50, sec. 10(dd), 101 Stat. 347; amended July 18, 1988, P.L. 100–369, sec. 7(c), 102 Stat. 837; amended July 23, 1992, P.L. 102–325, sec. 431, 106 Stat. 554; amended August 10, 1993, P.L. 103–66, secs. 4041(c) and 4104, 107 Stat. 356 and 367; amended December 20, 1993, P.L. 103–208, sec. 2(c)(69), (m), 107 Stat. 2470, 2486.

PART C—FEDERAL WORK-STUDY PROGRAMS

SEC. 441. PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE.—The purpose of this part is to stimulate and promote the part-time employment of students who are enrolled as undergraduate, graduate, or professional students and who are in need of earnings from employment to pursue courses of study at eligible institutions, and to encourage students receiving Federal student financial assistance to participate in community service activities that will benefit the Nation and engender in the students a sense of social responsibility and commitment to the community.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part, $800,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(c) COMMUNITY SERVICES.—For purposes of this part, the term "community services" means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs, including—

(1) such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement;

(2) work in a project, as defined in section 101(20) of the National and Community Service Act of 1990 (42 U.S.C. 12511(20));

(3) support services to students with disabilities; and

(4) activities in which a student serves as a mentor for such purposes as—

(A) tutoring;

(B) supporting educational and recreational activities; and

(C) counseling, including career counseling.

(42 U.S.C. 2751) Enacted Aug. 20, 1964, P.L. 88–452, sec. 121, 78 Stat. 515; amended Nov. 8, 1965, P.L. 89–329, sec. 441(2), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90–575, secs. 131, 132, 133, 82 Stat. 1028–1029; amended Oct. 22, 1969, P.L. 91–95, sec. 5, 83 Stat. 143; amended June 23, 1972; P.L. 92–318, sec. 135 and sec. 135A, 86 Stat. 270; amended October 12, 1976, P.L. 94–482, sec. 128(a), 90 Stat. 2143; amended October 3, 1980, P.L. 96–374, sec. 431, 94 Stat. 1433; amended October 17, 1986, P.L. 99–498, sec. 403(a), 100 Stat. 1429; amended July 23, 1992, P.L. 102–325, sec. 441(b), (c), and (d), 106 Stat. 563; amended September 21, 1993, P.L. 103–82, sec. 111(b)(3), 107 Stat. 860; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 442. ALLOCATION OF FUNDS.

(a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 441(b) for each fiscal year, the Secretary shall first allocate to each eligible institution for each succeeding fiscal year, an amount equal to 100 percent of the amount such institution received and used under this part for fiscal year 1985.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate or transfer to a 4-year institution of higher education.

(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 441(b) for any fiscal year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) bears to the amount all such institutions receive under such subsection (a).

(c) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 441(b) after making the allocations required by subsection (a), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (d)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 441(b) for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a).

(d) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students; and

(F) multiply the number of eligible independent students in ach income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988–1989 shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years, the Secretary shall—

(A) establish various income categories of graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category; and

(F) add the amounts determined under subparagraph (E) of this paragraph for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(e) REALLOCATION OF EXCESS ALLOCATIONS.—(1) If institutions return to the Secretary any portion of the sums allocated to such institutions under this section for any fiscal year, the Secretary shall reallot such excess to eligible institutions which used at least 10 percent of the total amount of funds granted to such institution under this section to compensate students employed in community service in the preceding fiscal year. Such excess funds shall be reallotted to institutions which qualify under this subsection on the same basis as excess eligible amounts are allocated to institutions pursuant to subsection (c). Funds received by institutions pursuant to this subsection shall be used to compensate students employed in community service.

(2) If, under paragraph (1) of this subsection, an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(f) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(42 U.S.C. 2752) Enacted Aug. 20, 1964, P.L. 88–452, sec. 122, 78 Stat. 514; amended Nov. 8, 1965, P.L. 89–329, sec. 441(1), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90–575, secs. 131, 135, 82 Stat. 1028–1029; amended June 23, 1972, P.L. 92–318, sec. 135B, 86 Stat. 270, 271; amended October 3, 1980, P.L. 96–374, secs. 431, 432, 1391, 94 Stat. 1433, 1503; amended October 17, 1986, P.L. 99–498, sec. 403(a), 100 Stat. 1429; amended June 3, 1987, P.L. 100–50, sec. 11(a), 101 Stat. 348; amended July 23, 1992, P.L. 102–325, sec. 442, 106 Stat. 564; amended December 20, 1993, P.L. 103–208, sec. 2(d)(1) and (2), (m), 107 Stat. 2470, 2486.

SEC. 443. GRANTS FOR FEDERAL WORK-STUDY PROGRAMS.

(a) AGREEMENTS REQUIRED.—The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

(b) CONTENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall—

(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself, work in community service or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services;

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938;

(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that—

(A) in fiscal year 1994 and succeeding fiscal years, an institution shall use at least 5 percent of the total amount of funds granted to such institution under this section in any fiscal year to compensate students employed in community service, except that the Secretary may waive this subparagraph if the Secretary determines that enforcing it would cause hardship for students at an institution; and

(B) an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 446 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

(3) provide that in the selection of students for employment under such work-study program, only students, who demonstrate financial need in accordance with part F of this title, and who meet the requirements of section 484 will be assisted, except that—

(A) if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students who are (i) attending the institution less than full time, or (ii) independent students; and

(B) if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution,

then at least 5 percent of the grant shall be made available to such less than full-time and independent students;

(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment is in excess of the determination of the amount of such student's need by more than $300, continued employment shall not be subsidized with funds appropriated under this part;

(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1993–1994 and succeeding academic years, except that the Federal share may exceed such amounts of compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part;

(6) include provisions to make employment under such work-study program reasonably available (to the extent of

available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

(7) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part;

(8) provide assurances, in the case of each proprietary institution, that students attending the proprietary institution receiving assistance under this part who are employed by the institution may be employed in jobs—

(A) that are only on campus and that—

(i) to the maximum extent practicable, complement and reinforce the education programs or vocational goals of such students; and

(ii) furnish student services that are directly related to the student's education, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; or

(B) in community service in accordance with paragraph (2)(A) of this subsection;

(9) provide assurances that employment made available from funds under this part may be used to support programs for supportive services to students with disabilities;

(10) provide assurances that the institution will inform all eligible students of the opportunity to perform community service, and will consult with local nonprofit, governmental, and community-based organizations to identify such opportunities; and

(11) include such other reasonable provisions as the Secretary shall deem necessary or appropriate to carry out the purpose of this part.

(c) PRIVATE SECTOR EMPLOYMENT AGREEMENT.—As part of its agreement described in subsection (b), an institution of higher education may, at its option, enter into an additional agreement with the Secretary which shall—

(1) provide for the operation by the institution of a program of part-time employment of its students in work for a private for-profit organization under an arrangement between the institution and such organization that complies with the requirements of subparagraphs (A) through (D) of subsection (b)(1) and subsection (b)(3);

(2) provide that the institution will use not more than 25 percent of the funds made available to such institution under this part for any fiscal year for the operation of the program described in paragraph (1);

(3) provide that, notwithstanding subsection (b)(5), the Federal share of the compensation of students employed in such program will not exceed 60 percent for academic years

1987–1988 and 1988–1989, 55 percent for academic year 1989–1990, and 50 percent for academic year 1990–1991 and succeeding academic years, and that the non-Federal share of such compensation will be provided by the private for-profit organization in which the student is employed;

(4) provide that jobs under the work study program will be academically relevant; and

(5) provide that the for-profit organization will not use funds made available under this part to pay any employee who would otherwise be employed by the organization.

(42 U.S.C. 2753) Enacted Aug. 20, 1964, P.L. 88–452, sec. 123, 78 Stat. 514; amended Nov. 8, 1965, P.L. 89–329, sec. 441(3), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90–575, secs. 131, 133, 139, 82 Stat. 1028–1030; amended Oct. 12, 1976, P.L. 94–482, sec. 128(b), 90 Stat. 2143; amended Oct. 3, 1980, P.L. 96–374, sec. 434, 94 Stat. 1434; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1432; amended June 3, 1987, P.L. 100–50, sec. 11(b), (c), 101 Stat. 348; amended July 23, 1992, P.L. 102–325, sec. 442(a)(2), 106 Stat. 563; amended July 23, 1992, P.L. 102–325, secs. 441(a)(2) and 443, 106 Stat. 563 and 564; amended December 20, 1993, P.L. 103–208, sec. 2(d)(3)–(5), (m), 107 Stat. 2470, 2486.

SEC. 444. SOURCES OF MATCHING FUNDS.

Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution.

(20 U.S.C. 2754) Enacted October 17, 1986, P.L. 99–498, sec. 403(a), 100 Stat. 1435; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 445. FLEXIBLE USE OF FUNDS.

(a) CARRY-OVER AUTHORITY.—(1) Of the sums granted to an eligible institution under this part for any fiscal year, 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part.

(2) Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

(b) CARRY-BACK AUTHORITY.—(1) Up to 10 percent of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.

(2) An eligible institution may make payments to students of wages earned after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year's appropriations.

(42 U.S.C. 2755) Enacted Aug. 20, 1964, P.L. 88–452, sec. 125, 78 Stat. 516; amended Nov. 8, 1966, P.L. 89–329, sec. 441(6), 79 Stat. 1250; amended Oct. 16, 1968, P.L. 90–575, sec. 131, 82 Stat. 1028; amended October 17, 1986, P.L. 99–498, sec. 403(a), 100 Stat. 1435; amended July 23, 1992, P.L. 102–325, sec. 444, 106 Stat. 566; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 446. JOB LOCATION AND DEVELOPMENT PROGRAMS.

(a) AGREEMENTS REQUIRED.—(1) The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 percent or $50,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions, locates and develops jobs, including community service jobs, for currently enrolled students.

(2) Jobs located and developed under this section shall be jobs that are suitable to the scheduling and other needs of such students and that, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.

(b) CONTENTS OF AGREEMENTS.—Agreements under subsection (a) shall—

(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

(3) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

(4) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

(5) provide satisfactory assurance that Federal funds used for the purpose of this section can realistically be expected to help generate student wages exceeding, in the aggregate, the amount of such funds, and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

(6) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

(42 U.S.C. 2756) Enacted Aug. 20, 1964, P.L. 88–452, sec. 126, 78 Stat. 516; amended Nov. 8, 1965, P.L. 89–329, sec. 441(1), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90–575, sec. 131, 82 Stat. 1028; amended June 28, 1975, P.L. 94–43, sec. 2, 89 Stat. 233; amended Oct. 3, 1980, P.L. 96–374, secs. 435(b), 1391, 94 Stat. 1435, 1503; amended October 17, 1986, P.L. 99–498, sec. 403(a), 100 Stat. 1435; amended June 3, 1987, P.L. 100–50, sec. 11(d), 101 Stat. 348; amended July 23, 1992, P.L. 102–325, sec. 445, 106 Stat. 566; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 447. ADDITIONAL FUNDS TO CONDUCT COMMUNITY SERVICE WORK-STUDY PROGRAMS.

Each institution participating under this part may use up to 10 percent of the funds made available under section 489(a) and attributable to the amount of the institution's expenditures under this part to conduct that institution's program of community service-learning, including—

(1) development of mechanisms to assure the academic quality of the student experience,

(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

(3) collaboration with public and private nonprofit agencies, and programs assisted under the National and Community Service Act of 1990 in the planning, development, and administration of such programs.

(42 U.S.C. 2756a) Enacted June 23, 1972, P.L. 92–318, sec. 135F, 86 Stat. 271, 272; amended Oct. 12, 1976, sec. 128(d), 90 Stat. 2143, 2144; amended Oct. 3, 1980, P.L. 96–374, secs. 436, 1391, 94 Stat. 1436, 1503; amended October 17, 1986, P.L. 99–498, sec. 403(a), 100 Stat. 1436; amended July 23, 1992, P.L. 102–325, sec. 446(a), and (b), 106 Stat. 567; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 448. WORK COLLEGES.

(a) PURPOSE.—The purpose of this section is to recognize, encourage, and promote the use of comprehensive work-learning programs as a valuable educational approach when it is an integral part of the institution's educational program and a part of a financial plan which decreases reliance on grants and loans.

(b) SOURCE AND USE FUNDS.—

(1) SOURCE OF FUNDS.—In addition to the sums appropriated under subsection (f), funds allocated to the institution under part C and part E of this title may be transferred for use under this section to provide flexibility in strengthening the self-help-through-work element in financial aid packaging.

(2) ACTIVITIES AUTHORIZED.—From the sums appropriated pursuant to subsection (f), and from the funds available under paragraph (1), eligible institutions may, following approval of an application under subsection (c) by the Secretary—

(A) support the educational costs of qualified students through self-help payments or credits provided under the work-learning program of the institution within the limits of part F of this title;

(B) promote the work-learning-service experience as a tool of postsecondary education, financial self-help and community service-learning opportunities;

(C) carry out activities described in section 443 or 446; and

(D) be used for the administration, development and assessment of comprehensive work-learning programs, including—

(i) community-based work-learning alternatives that expand opportunities for community service and career-related work; and

(ii) alternatives that develop sound citizenship, encourage student persistence, and make optimum use of assistance under this part in education and student development.

(c) APPLICATION.—Each eligible institution may submit an application for funds authorized by subsection (f) to use funds under subsection (b)(1) at such time and in such manner as the Secretary, by regulation, may reasonably require.

(d) MATCH REQUIRED.—Funds made available to work-colleges pursuant to this section shall be matched on a dollar-for-dollar basis from non-Federal sources.

(e) DEFINITIONS.—For the purpose of this section—

(1) the term "work-college" means an eligible institution that—

(A) has been a public or private nonprofit institution with a commitment to community service;

(B) has operated a comprehensive work-learning program for at least 2 years;

(C) requires all resident students who reside on campus to participate in a comprehensive work-learning program and the provision of services as an integral part of the institution's educational program and as part of the institution's educational philosophy; and

(D) provides students participating in the comprehensive work-learning program with the opportunity to contribute to their education and to the welfare of the community as a whole; and

(2) the term "comprehensive student work-learning program" means a student work/service program that is an integral and stated part of the institution's educational philosophy and program; requires participation of all resident students for enrollment, participation, and graduation; includes learning objectives, evaluation and a record of work performance as part of the student's college record; provides programmatic leadership by college personnel at levels comparable to traditional academic programs; recognizes the educational role of work-learning supervisors; and includes consequences for nonperformance or failure in the work-learning program similar to the consequences for failure in the regular academic program.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(42 U.S.C. 2756b) Enacted July 23, 1992, P.L. 102–325, sec. 447, 106 Stat. 567; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

PART D—FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 451. PROGRAM AUTHORITY.

There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

(20 U.S.C. 1087a) Enacted August 10, 1993, P.L. 103–66, sec. 4021, 107 Stat. 341.

SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS.

(a) IN GENERAL.—The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

(1) directly to an institution of higher education that has an agreement with the Secretary under section 454(a) to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 454(b) to originate loans under this part; or

(2) through an alternative originator designated by the Secretary to students (and parents of students) attending institutions of higher education that have an agreement with the Secretary under section 454(a) but that do not have an agreement with the Secretary under section 454(b).

(b) FEES FOR ORIGINATION SERVICES.—

(1) FEES FOR INSTITUTIONS.—The Secretary shall pay fees to institutions of higher education (or a consortium of such institutions) with agreements under section 454(b), in an amount established by the Secretary, to assist in meeting the costs of loan origination. Such fees—

(A) shall be paid by the Secretary based on all the loans made under this part to a particular borrower in the same academic year;

(B) shall be subject to a sliding scale that decreases the per borrower amount of such fees as the number of borrowers increases; and

(C)(i) for academic year 1994–1995, shall not exceed a program-wide average of $10 per borrower for all the loans made under this part to such borrower in the same academic year; and

(ii) for succeeding academic years, shall not exceed such average fee as the Secretary shall establish pursuant to regulations.

(2) FEES FOR ALTERNATIVE ORIGINATORS.—The Secretary shall pay fees for loan origination services to alternative originators of loans made under this part in an amount established by the Secretary in accordance with the terms of the contract described in section 456(b) between the Secretary and each such alternative originator.

(c) NO ENTITLEMENT TO PARTICIPATE OR ORIGINATE.—No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

(d) DELIVERY OF LOAN FUNDS.—Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of basic grants under subpart 1 of part A of this title.

(20 U.S.C. 1087b) Enacted August 10, 1993, P.L. 103–66, sec. 4021, 107 Stat. 341.

SEC. 453. SELECTION OF INSTITUTIONS FOR PARTICIPATION AND ORIGINATION.

(a) PHASE-IN OF PROGRAM.—

(1) GENERAL AUTHORITY.—The Secretary shall enter into agreements pursuant to section 454(a) with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 454(b) with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 456(b) or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

(2) TRANSITION PROVISIONS.—In order to ensure an expeditious but orderly transition from the loan programs under part B of this title to the direct student loan program under this part, the Secretary shall, in the exercise of the Secretary's discretion, determine the number of institutions with which the Secretary shall enter into agreements under subsections (a) and (b) of section 454 for any academic year, except that the Secretary shall exercise such discretion so as to achieve the following goals:

(A) for academic year 1994–1995, loans made under this part shall represent 5 percent of the new student loan volume for such year;

(B) for academic year 1995–1996, loans made under this part shall represent 40 percent of the new student loan volume for such year;

(C) for academic years 1996–1997 and 1997–1998, loans made under this part shall represent 50 percent of the new student loan volume for such years; and

(D) for the academic year that begins in fiscal year 1998, loans made under this part shall represent 60 percent of the new student loan volume for such year.

(3) EXCEPTION.—The Secretary may exceed the percentage goals described in subparagraphs (C) or (D) of paragraph (2) if the Secretary determines that a higher percentage is warranted by the number of institutions of higher education that

desire to participate in the program under this part and that meet the eligibility requirements for such participation.

(4) NEW STUDENT LOAN VOLUME.—For the purpose of this subsection, the term "new student loan volume" means the estimated sum of all loans (other than consolidation loans) that will be made, insured or guaranteed under this part and part B in the year for which the determination is made. The Secretary shall base the estimate described in the preceding sentence on the most recent program data available.

(b) SELECTION CRITERIA.—

(1) APPLICATION.—Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

(2) SELECTION PROCEDURE.—The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 454(a), from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe, by, to the extent possible—

(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and

(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.

(c) SELECTION CRITERIA FOR ORIGINATION.—

(1) IN GENERAL.—The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

(A) has an agreement under subsection 454(a);

(B) desires to originate loans under this part; and

(C) meets the criteria described in paragraph (2).

(2) TRANSITION SELECTION CRITERIA.—For academic year 1994–1995, the Secretary may approve an institution to originate loans only if such institution—

(A) made loans under part E of this title in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 462(g) for the most recent fiscal year for which data are available;

(B) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E of this title;

(C) is not overdue on program or financial reports or audits required under this title;

(D) is not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c);

(E) in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part H of this title;

(F) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this title, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

(G) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

(H) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

(3) REGULATIONS GOVERNING APPROVAL AFTER TRANSITION.—For academic year 1995–1996 and subsequent academic years, the Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 457(a)(2).

(d) ELIGIBLE INSTITUTIONS.—The Secretary may not select an institution of higher education for participation under this section unless such institution is an eligible institution under section 435(a).

(e) CONSORTIA.—Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education (as determined under subsection (d)) with agreements under section 454(a) may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) with respect to loan origination.

(20 U.S.C. 1087c) Enacted August 10, 1993, P.L. 103–66, sec. 4021, 107 Stat. 342; amended December 20, 1993, P.L. 103–208, sec. 2(e), 107 Stat. 2470.

SEC. 454. AGREEMENTS WITH INSTITUTIONS.

(a) PARTICIPATION AGREEMENTS.—An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 484;

(B) estimate the need of each such student as required by part F of this title for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 428H (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 428B (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part F of this title), if the reason for such action is documented and provided in written form to such student;

(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and

(E) provide timely and accurate information—

(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

(4) provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this title at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part, except that a student or parent may not receive loans under both this part and part B for the same period of enrollment;

(5) provide for the implementation of a quality assurance system, as established by the Secretary and developed in con-

sultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

(6) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(7) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

(b) ORIGINATION.—An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

(1) supplement the agreement entered into in accordance with subsection (a);

(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a), as modified to relate to the origination of loans by the institution or consortium;

(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

(c) WITHDRAWAL AND TERMINATION PROCEDURES.—The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

(20 U.S.C. 1087d) Enacted August 10, 1993, P.L. 103-66, sec. 4021, 107 Stat. 345.

SEC. 455. TERMS AND CONDITIONS OF LOANS.

(a) IN GENERAL.—

(1) PARALLEL TERMS, CONDITIONS, BENEFITS, AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under sections 428, 428B, and 428H of this title.

(2) DESIGNATION OF LOANS.—Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

(A) section 428 shall be known as "Federal Direct Stafford Loans";

(B) section 428B shall be known as "Federal Direct PLUS Loans"; and

(C) section 428H shall be known as "Federal Direct Unsubsidized Stafford Loans".

(b) INTEREST RATE.—

(1) RATES FOR FDSL AND FDUSL.—For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month pe-

riod beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

(2) IN SCHOOL AND GRACE PERIOD RULES.—(A) Notwithstanding the provisions of paragraph (1), but subject to paragraph (3), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under subparagraph (B).

(B) For the purpose of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(ii) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) OUT-YEAR RULE.—Notwithstanding paragraphs (1) and (2), for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(4) RATES FOR FDPLUS.—(A) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.

(B) For Federal Direct PLUS loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(ii) 2.1 percent,

except that such rate shall not exceed 9 percent.

(5) PUBLICATION.—The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(c) LOAN FEE.—The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of loan.

(d) REPAYMENT PLANS.—

(1) DESIGN AND SELECTION.—Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part. The borrower may choose—

(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L);

(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time prescribed by the Secretary, not to exceed 25 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan.

(2) SELECTION BY SECRETARY.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

(4) ALTERNATIVE REPAYMENT PLANS.—The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are

not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

(5) REPAYMENT AFTER DEFAULT.—The Secretary may require any borrower who has defaulted on a loan made under this part to—

(A) pay all reasonable collection costs associated with such loan; and

(B) repay the loan pursuant to an income contingent repayment plan.

(e) INCOME CONTINGENT REPAYMENT.—

(1) INFORMATION AND PROCEDURES.—The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Returns and return information (as defined in section 6103 of the Internal Revenue Code of 1986) may be obtained under the preceding sentence only to the extent authorized by section 6103(l)(13) of such Code. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

(2) REPAYMENT BASED ON ADJUSTED GROSS INCOME.—A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

(3) ADDITIONAL DOCUMENTS.—A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

(4) REPAYMENT SCHEDULES.—Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

(5) CALCULATION OF BALANCE DUE.—The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate

regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

(6) NOTIFICATION TO BORROWERS.—The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent repayment is notified of the terms and conditions of such plan, including notification of such borrower—

(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986; and

(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

(f) DEFERMENT.—

(1) EFFECT ON PRINCIPAL AND INTEREST.—A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

(A) shall not accrue, in the case of a—

(i) Federal Direct Stafford Loan; or

(ii) a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan not described in subparagraph (A)(ii).

(2) ELIGIBILITY.—A borrower of a loan made under this part shall be eligible for a deferment during any period—

(A) during which the borrower—

(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 435(a)) the borrower is attending; or

(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 435(o), that the borrower has experienced or will experience an economic hardship.

(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A borrower of a loan made under this part may consolidate such loan with the loans described in section 428C(a)(4) only under such terms and conditions as the Secretary shall establish pursuant to section 457(a)(1) or regulations promulgated under this part. Loans made under this subsection shall be known as "Federal Direct Consolidation Loans".

(h) BORROWER DEFENSES.—Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations (except as authorized under section 457(a)(1)) which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

(i) LOAN APPLICATION AND PROMISSORY NOTE.—The common financial reporting form required in section 483(a)(1) shall constitute the application for loans made under this part (other than a Federal Direct PLUS loan). The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

(j) LOAN DISBURSEMENT.—

(1) IN GENERAL.—Proceeds of loans to students under this part shall be applied to the student's account for tuition and fees, and, in the case of institutionally owned housing, to room and board. Loan proceeds that remain after the application of the previous sentence shall be delivered to the borrower by check or other means that is payable to and requires the endorsement or other certification by such borrower.

(2) PAYMENT PERIODS.—The Secretary shall establish periods for the payments described in paragraph (1) in a manner consistent with payment of basic grants under subpart 1 of part A of this title.

(k) FISCAL CONTROL AND FUND ACCOUNTABILITY.—

(1) IN GENERAL.—(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under this title.

(B) Except as otherwise required by regulations of the Secretary, or in a notice under section 457(a)(1), an institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

(2) PAYMENTS AND REFUNDS.—Payments and refunds shall be reconciled in a manner consistent with the manner set forth for the submission of a payment summary report required of

institutions participating in the program under subpart 1 of part A, except that nothing in this paragraph shall prevent such reconciliations on a monthly basis.

(3) TRANSACTION HISTORIES.—All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of basic grants under subpart 1 of part A of this title.

(20 U.S.C. 1087e) Enacted August 10, 1993, P.L. 103–66, sec. 4021, 107 Stat. 346.

SEC. 456. CONTRACTS.

(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

(1) IN GENERAL.—The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b). In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

(2) ENTITIES.—The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 428(b) and (c), if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part, give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

(b) CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.—The Secretary may enter into contracts for—

(1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 454(b);

(2) the servicing and collection of loans made under this part;

(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made under this part;

(4) services to assist in the orderly transition from the loan programs under part B to the direct student loan program under this part; and

(5) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

(20 U.S.C. 1087f) Enacted August 10, 1993, P.L. 103–66, sec. 4021, 107 Stat. 352.

SEC. 457. REGULATORY ACTIVITIES.

(a) NOTICE IN LIEU OF REGULATIONS FOR FIRST YEAR OF PROGRAM.—

(1) NOTICE IN LIEU OF REGULATIONS FOR FIRST YEAR OF PROGRAM.—The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, the Secretary, in consultation with members of the higher education community, determines are reasonable and necessary to the successful implementation of the first year of the direct student loan program authorized by this part. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.

(2) NEGOTIATED RULEMAKING.—Beginning with academic year 1995–1996, all standards, criteria, procedures, and regulations implementing this part as amended by the Student Loan Reform Act of 1993 shall, to the extent practicable, be subject to negotiated rulemaking, including all such standards, criteria, procedures, and regulations promulgated from the date of enactment of such Act.

(b) CLOSING DATE FOR APPLICATIONS FROM INSTITUTIONS.—The Secretary shall establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the first year of the direct loan program under this part.

(c) PUBLICATION OF LIST OF PARTICIPATING INSTITUTIONS.—Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the first year of the direct loan program under this part.

(20 U.S.C. 1087g) Enacted August 10, 1993, P.L. 103–66, sec. 4021, 107 Stat. 352.

SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Each fiscal year, there shall be available to the Secretary of Education from funds available pursuant to section 422(g) and from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B to the direct student loan programs under this part (including the costs of annually assessing the program under this part and the progress of the transition) and transition support (including administrative costs) for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $345,000,000 in fiscal year 1995, $550,000,000 in fiscal year 1996, $595,000,000 in fiscal year 1997, and $750,000,000 in fiscal year 1998. If in any fiscal year the Secretary determines that additional funds for administrative expenses are needed as a result of such transition or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary (from such funds not otherwise appropriated) shall not exceed $2,500,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year.

(b) AVAILABILITY.—Funds made available under subsection (a) shall remain available until expended.

(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

(d) NOTIFICATION.—In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) to draw funds for administrative expenses from a future year's funds, no funds may be expended under this section unless the Secretary immediately notifies the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action.

(20 U.S.C. 1087h) Enacted August 10, 1993, P.L. 103–66, sec. 4021, 107 Stat. 353.

PART E—FEDERAL PERKINS LOANS

SEC. 461. APPROPRIATIONS AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions or while engaged in programs of study abroad approved for credit by such institutions. Loans made under this part shall be known as "Federal Perkins Loans".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $250,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be appropriated such sums for fiscal year 1997 and each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1997, to continue or complete courses of study.

(c) USE OF APPROPRIATIONS.—Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 463. Such Fed-

eral capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

(20 U.S.C. 1087aa) Enacted June 23, 1972, P.L. 92–318, sec. 137(b), 86 Stat. 273; amended October 12, 1976, P.L. 94–482, secs. 130(a) and 130(b), 90 Stat. 2146; amended October 3, 1980, P.L. 96–374, secs. 441, 1391, 94 Stat. 1436, 1503; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1439; amended July 23, 1992, P.L. 102–325, sec. 461(a)(2)–(c), 106 Stat. 576; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 462. ALLOCATION OF FUNDS.

(a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 461(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount of Federal capital contribution allocated to such institution under this part for fiscal year 1985, multiplied by

(B) the institution's default penalty, as determined under subsection (f),

except that if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (f),

except that if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 461(b) for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

(1) the amount the eligible institution receives for such fiscal year under subsection (a), bears to

(2) the amount all such institutions receive under such subsection (a).

(c) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 461(b) after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 461(b) for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a),

except that an eligible institution which has a default rate in excess of the applicable maximum default rate under subsection (g) may not receive an allocation under this paragraph.

(3) For any eligible institution, the eligible amount of that institution is equal to—

(A) the amount of the institution's self-help need, as determined under subsection (d); minus

(B) the institution's anticipated collections; multiplied by

(C) the institution's default penalty, as determined under subsection (f);

except that, if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the eligible amount of that institution is zero.

(d) DETERMINATION OF INSTITUTION'S SELF-HELP NEED.—(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988–1989, shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years, the Secretary shall—

(A) establish various income categories for graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

(F) add the amounts determined under subparagraph (E) for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(e) ANTICIPATED COLLECTIONS.—(1) An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low default rates in the program assisted under this part.

(f) DEFAULT REDUCTION AND DEFAULT PENALTIES.—(1) For any fiscal year prior to fiscal year 1994, any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g), the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

(2) For fiscal year 1994 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h)) which—

(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations issued by the Secretary;

(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

(D) equals or exceeds 30 percent shall have a default penalty of zero.

(g) APPLICABLE MAXIMUM DEFAULT RATE.—(1) For award years 1992 and 1993, the applicable maximum default rate is 15 percent.

(2) For award year 1994 and subsequent years, the maximum cohort default rate is 30 percent.

(h) DEFINITIONS OF DEFAULT RATE AND COHORT DEFAULT RATE.—(1) For any award year prior to award year 1994, for the purpose of this section, the default rate is computed by dividing—

(A) the total principal amount of defaulted loans; by

(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 464(c)(2)(A)(i) or are in a grace period preceding repayment.

(2) For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

(A) amounts that have been repaid or cancelled on such loans;

(B) loans discharged in bankruptcy;

(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a); and

(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.

(3)(A) For award year 1994 and any succeeding year, the term "cohort default rate" means, for any award year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that award year who default before the end of the following award year.

(B) In determining the number of students who default before the end of such award year, the Secretary shall, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.

(C) For any award year in which less than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the percentage of such current and former students who entered repayment on such loans in any of the three most recent award years and who default before the end of the award year immediately following the year in which they entered repayment.

(D) A loan on which a payment is made by the institution of higher education, its owner, agency, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection.

(E) Any loan that is in default but on which the borrower has made satisfactory arrangements to resume payment or any loan which has been rehabilitated before the end of such following award year is not considered as in default for purposes of this subsection.

(F) In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

(G) The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.

(4) A loan shall be considered to be in default—

(A) 240 days (in the case of a loan repayable monthly), or

(B) 270 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note,

(i) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(j) REALLOCATION OF EXCESS ALLOCATIONS.—

(1) IN GENERAL.—(A) If an institution of higher education returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate 80 percent of such returned portions to participating institutions in an amount not to exceed such participating institution's excess eligible amounts as determined under paragraph (2).

(B) For the purpose of this subsection, the term "participating institution" means an institution of higher education that—

(i) was a participant in the program assisted under this part in fiscal year 1985; and

(ii) did not receive an allocation under subsection (a) in the fiscal year for which the reallocation determination is made.

(2) EXCESS ELIGIBLE AMOUNT.—For any participating institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c)), divided by (ii) the sum of the eligible amounts of all participating institutions (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

(B) the amount required to be allocated to that institution under subsection (c) of section 462.

(3) REMAINDER.—The Secretary shall reallocate the remainder of such returned portions in accordance with regulations of the Secretary.

(4) ALLOCATION REDUCTIONS.—If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.

(20 U.S.C. 1087bb) Enacted June 23, 1972, P.L. 92–318, sec. 137(b), 86 Stat. 273, 274; amended October 3, 1980, P.L. 96–374, secs. 448(a), 1391, 94 Stat. 1443, 1503; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1440; amended June 3, 1987, P.L. 100–50, sec. 13(a)–(d), 101 Stat. 348; amended July 23, 1992, P.L. 102–325, sec. 462, 106 Stat. 576; amended December 20, 1993, P.L. 103–208, sec. 2(f)(1)–(4), (m), 107 Stat. 2470–71, 2486.

SEC. 463. AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.

(a) CONTENTS OF AGREEMENTS.—An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 461;

(B) a capital contribution—

(i) by an institution that—

(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

(II) has a default rate which does not exceed 7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year, in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

(ii) by any other institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 464(c)(1)(H); and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b);

(C) capital distributions, as provided in section 466; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

(4) provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in an annual report describing the total number of loans from such fund which are in such default;

(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 462; or

(B) if the institution is not one described in subparagraph (A), the Secretary may—

(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;

(6) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 462;

(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

(8) provide assurances that the institution will comply with the provisions of section 463A;

(9) provide that the institution of higher education will make loans first to students with exceptional need; and

(10) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution.

(b) ADMINISTRATIVE EXPENSES.—An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 489.

(c) COOPERATIVE AGREEMENTS WITH CREDIT BUREAU ORGANIZATIONS.—(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 430A except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

(A) the date of disbursement and the amount of any such loan;

(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until—

(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency.

(4) Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement—

(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

(B) the information set forth in section 430A(a).

(d) Limitation on Use of Interest Bearing Accounts.—In carrying out the provisions of subsection (a)(10), the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

(e) Special Due Diligence Rule.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.

(20 U.S.C. 1087cc) Enacted June 23, 1972, P.L. 92–318, sec. 137(b), 86 Stat. 274, 275; amended October 12, 1976, P.L. 94–482, sec. 130(c), 90 Stat. 2146, 2147; amended October 3, 1980, P.L. 96–374, secs. 442(b) (1), (2), (3), 445(a), (b)(1), 447(a), 448(b), 1391, 94 Stat. 1439, 1440, 1442, 1443, 1503; amended April 7, 1986, P.L. 99–272, secs. 16025, 16026, 100 Stat. 352, 353; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1444; amended June 3, 1987, P.L. 100–50, sec. 13(e)–(f), 101 Stat. 349; amended July 23, 1992, P.L. 102–325, sec. 463(a), (b), 106 Stat. 579; amended December 20, 1993, P.L. 103–208, sec. 2(f)(5)–(7), (m), 107 Stat. 2471, 2486.

SEC. 463A. STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS.

(a) Disclosure Required Prior to Disbursement.—Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 2172);

(11) a definition of default and the consequences to the borrower if the borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part, shall be reported to a credit bureau or credit reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) DISCLOSURE REQUIRED PRIOR TO REPAYMENT.—Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) COSTS AND EFFECTS OF DISCLOSURES.—Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

(20 U.S.C. 1087cc–1) Enacted October 3, 1980, P.L. 96–374, sec. 447(b), 94 Stat. 1443; amended October 13, 1982, P.L. 97–301, sec. 13(b), 96 Stat. 1404; amended August 15, 1983, P.L. 98–79, sec. 3(b), 97 Stat. 478; amended April 7, 1986, P.L. 99–272, sec. 16027, 100 Stat. 353; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1446; amended June 3, 1987, P.L. 100–50, sec. 13(g)–(h), 101 Stat. 349; amended July 23, 1992, P.L. 102–325, sec. 463(c), 106 Stat. 579; amended December 20, 1993, P.L. 103–208, sec. 2(f)(8), is amended, 107 Stat. 2471, 2486.

SEC. 464. TERMS OF LOANS.

(a) TERMS AND CONDITIONS.—(1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

(i) for institutions that have an agreement with the Secretary to participate in the Expanded Lending Option under section 463(a)(2)(B)(i)—

(I) $4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

(II) $6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(ii) for all other institutions—

(I) $3,000, in the case of a student who has not successfully completed a program of undergraduate education; or

(II) $5,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(B) Except as provided in paragraph (4), the aggregate of the loans for all years made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(i) for institutions that have an agreement with the Secretary to participate in the Expanded Lending Option under section 463(a)(2)(B)(i)—

(I) $40,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

(II) $20,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

(III) $8,000 in the case of any other student; or

(ii) for all other institutions—

(I) $15,000, in the case of any student who has not successfully completed a program of undergraduate education; or

(II) $30,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary) and including any loans from such funds made to such student before the student became a graduate or professional student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.

(b) DEMONSTRATION OF NEED AND ELIGIBILITY REQUIRED.—(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part F of this title, who meets the requirements of section 484, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan.

(2) If the institution's capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less

than full time, or (B) independent students, and if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time and independent students.

(c) CONTENTS OF LOAN AGREEMENT.—(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $40 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $40 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of (i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii) 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (I) prior to the beginning date of repayment determined under subparagraph (A)(i), or (II) during any period in which repayment is suspended by reason of paragraph (2);

(E) shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 463(a)(6);

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship; or

(iv) during which the borrower is engaged in service described in section 465(a)(2);

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B).

(B) No repayment of principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.

(5) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(d) AVAILABILITY OF LOAN FUND TO ALL ELIGIBLE STUDENTS.—An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) FORBEARANCE.—The Secretary shall ensure that, upon written request, an institution of higher education shall grant a borrower forbearance of principal and interest or principal only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

(1) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income; or

(2) the institution determines that the borrower should qualify for forbearance for other reasons.

(f) SPECIAL REPAYMENT RULE AUTHORITY.—(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

(A) 90 percent of the loan under this part;

(B) the interest due on such loan; and

(C) any collection fees due on such loan;

in a lump sum payment.

(20 U.S.C. 1087dd) Enacted June 23, 1972, P.L. 92–318, sec. 137(b), 86 Stat. 275, 277; amended October 12, 1976, P.L. 94–482, sec. 130(d), 130(e), 130(f), 130 (g)(1) and (g)(2), 90 Stat. 2147; amended June 15, 1977, P.L. 95–43, secs. 1(a)(39), 91 Stat. 217; amended October 3, 1980, P.L. 96–374, secs. 442(b) (4), (5), 443, 444, 445(b)(2), 446, 448(c), 1391, 94 Stat. 1440, 1441, 1442, 1443, 1503; amended August 13, 1981, P.L. 97–35, sec. 539, 95 Stat. 458; amended April 7, 1986, P.L. 99–272, sec. 16028, 100 Stat. 353; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1448; amended June 3, 1987, P.L. 100–50, sec. 13(i), 101 Stat. 349; amended July 18, 1988, P.L. 100–369, sec. 7(c), 102 Stat. 837; amended December 19, 1989, P.L. 101–239, sec. 2001(3), 103 Stat. 2111; amended July 23, 1992, P.L. 102–325, sec. 464, 106 Stat. 580; amended December 20, 1993, P.L. 103–208, sec. 2(f)(9)–(11), (m), 107 Stat. 2471, 2486.

SEC. 465. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

(a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to chapter 1 of the Education Consolidation and Improvement Act of 1981, and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 percent of the total enrollment of that school;

(B) as a full-time staff member in a preschool program carried on under the Head Start Act which is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

(C) as a full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, or as a full-time qualified professional provider of early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 676(b)(9) of the Individuals With Disabilities Education Act;

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities;

(E) as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973;

(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies;

(G) as a full-time teacher of mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(H) as a full-time nurse or medical technician providing health care services; or

(I) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children.

For the purpose of this paragraph, the term "children with disabilities" has the meaning set forth in section 602(a)(1) of the Individuals with Disabilities Education Act.

(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in subparagraph (A), (C), (F), (G), (H), or (I) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service;

(iii) in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or

(iv) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purpose of this subsection, the term "year" where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1986.

(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

(b) REIMBURSEMENT FOR CANCELLATION.—The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

(c) SPECIAL RULES.—

(1) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (a)(2)(A) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(2) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

(A) meets the requirements of subsection (a)(2)(A) in any year; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) such subsequent years.

(20 U.S.C. 1087ee) Enacted June 23, 1972, P.L. 92–318, sec. 137(b), 86 Stat. 277, 278; amended Nov. 1, 1978, P.L. 95–561, sec. 1323, 92 Stat. 2363; amended October 3, 1980, P.L. 96–374, secs. 442(b)(6), 448 (d), (e), 1391, 94 Stat. 1440, 1443, 1503; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1451; amended June 3, 1987, P.L. 100–50, sec. 13(j), 101 Stat. 349; amended July 18, 1988, P.L. 100–369, sec. 7(c), 102 Stat. 837; amended November 29, 1990, P.L. 101–647, sec. 2101(a) and (b), 104 Stat. 4856; amended October 7, 1991, P.L. 102–119, sec. 26(h), 105 Stat. 607; amended July 23, 1992, P.L. 102–325, sec. 465(a)–(c), 106 Stat. 582; amended September 21, 1993, P.L. 103–82, sec. 102(c)(3), 107 Stat. 824; amended December 20, 1993, P.L. 103–208, sec. 2(f)(12)–(14), (k)(7), (m), 107 Stat. 2471, 2486.

SEC. 466. DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.

(a) IN GENERAL.—After September 30, 1996, and not later than March 31, 1997, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1996, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) DISTRIBUTION OF LATE COLLECTIONS.—After March 31, 2005, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 1996, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a).

(c) DISTRIBUTION OF EXCESS CAPITAL.—(1) Upon a finding by the institution or the Secretary prior to October 1, 1997, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(B) The remainder of the capital distribution shall be paid to the institution.

(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 462.

(20 U.S.C. 1087ff) Enacted June 23, 1972, P.L. 92–318, sec. 137(b), 86 Stat. 278, 279; amended October 12, 1976, P.L. 94–482, sec. 130(h), 90 Stat. 2147; amended October 3, 1980, P.L. 96–374, secs. 442(c), 1391, 94 Stat. 1440, 1503; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1453; amended July 23, 1992, P.L. 102–325, sec. 466, 106 Stat. 584; amended December 20, 1993, P.L. 103–208, sec. 2(f)(15), (m), 107 Stat. 2471, 2486.

SEC. 467. COLLECTION OF DEFAULTED LOANS: PERKINS LOAN REVOLVING FUND.

(a) AUTHORITY OF SECRETARY TO COLLECT REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—With respect to any loan—

(1) which was made under this part, and

(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a),

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

(b) COLLECTION OF REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.

(c) PERKINS LOAN REVOLVING FUND.—(1) There is established a Perkins Loan Revolving Fund which shall be available without fiscal year limitation to the Secretary to make payments under this part, in accordance with paragraph (2) of this subsection. There shall be deposited in the Perkins Revolving Loan Fund—

(A) all funds collected by the Secretary on any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a);

(B) all funds collected by the Secretary on any loan referred under paragraph (5)(B)(ii) of section 463(a);

(C) all funds paid to the Secretary under section 466(c)(1)(A);

(D) all funds from a student loan fund under this part received by the Secretary as the result of the closure of an institution of higher education;

(E) all funds received by the Secretary as a result of an audit of a student loan fund established under this part; and

(F) all funds which have been appropriated and which the Secretary determines are not necessary for carrying out section 465, relating to the cancellation of certain loans under this part for qualifying service.

(2) Notwithstanding any other provision of law, the Secretary shall, from the Perkins Loan Revolving Fund established under paragraph (1), pay allocations of additional capital contributions to eligible institutions of higher education in accordance with section 462, except that funds described in subparagraph (B) of paragraph (1) shall be repaid to the institution of higher education which referred the loan, as specified in section 463(a)(5)(B)(ii). The Secretary shall make the payments required by this paragraph in a manner designed to maximize the availability of capital loan funds under this part.

(20 U.S.C. 1087gg) Enacted August 13, 1979, P.L. 96–49, sec. 5(d)(3), 93 Stat. 352; amended October 3, 1980, P.L. 96–374, secs. 445(c), 1391, 94 Stat. 1442, 1503; amended April 7, 1986, P.L. 99–272, sec. 16029, 100 Stat. 354; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1453; amended July 23, 1992, P.L. 102–325, sec. 467, 106 Stat. 584; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 468. GENERAL AUTHORITY OF SECRETARY.

In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

(20 U.S.C. 1087hh) Enacted October 3, 1980, P.L. 96–374, sec. 442(a), 94 Stat. 1437; amended October 17, 1986, P.L. 99–498, sec. 405(a), 100 Stat. 1454; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 469. DEFINITIONS.

(a) LOW-INCOME COMMUNITIES.—For the purpose of this part, the term "low-income communities" means communities in which there is a high concentration of children eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(b) High-Risk Children.—For the purposes of this part, the term "high-risk children" means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

(c) Infants, Toddlers, Children, and Youth With Disabilities.—For purposes of this part, the term "infants, toddlers, children, and youth with disabilities" means children with disabilities and infants and toddlers with disabilities as defined in sections 602(a)(1) and 672(1), respectively, of the Individuals with Disabilities Education Act, and the term "qualified professional provider of early intervention services" has the meaning specified in section 672(2) of such Act.

(20 U.S.C. 1087ii) Enacted July 23, 1992, P.L. 102-325, sec. 465(d), 106 Stat. 583; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

PART F—NEED ANALYSIS

SEC. 471. AMOUNT OF NEED.

Except as otherwise provided therein, the amount of need of any student for financial assistance under this title (except subparts 1 or 4 of part A) is equal to—

(1) the cost of attendance of such student, minus

(2) the expected family contribution for such student, minus

(3) estimated financial assistance not received under this title (as defined in section 480(j)).

(20 U.S.C. 1087kk) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1454; amended July 23, 1992, P.L. 102-325, sec. 471(a), 106 Stat. 585.

SEC. 472. COST OF ATTENDANCE.

For the purpose of this title, the term "cost of attendance" means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (8));

(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) for incarcerated students only tuition and fees and, if required, books and supplies;

(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);

(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—

(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and

(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

(10) for a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment;

(11) for a student placed in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution); and

(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be.

(20 U.S.C. 1087ll) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1454; amended July 23, 1992, P.L. 102–325, sec. 471, 106 Stat. 585; amended December 20, 1993, P.L. 103–208, sec. 2(g)(1), 107 Stat. 2471.

SEC. 473. FAMILY CONTRIBUTION.

For the purpose of this title, except subpart 4 of part A, the term "family contribution" with respect to any student means the amount which the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

(20 U.S.C. 1087mm) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1455; amended July 23, 1992, P.L. 102–325, sec. 471, 106 Stat. 586; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 586.

SEC. 474. DETERMINATION OF EXPECTED FAMILY CONTRIBUTION; DATA ELEMENTS.

(a) General Rule for Determination of Expected Family Contribution.—The expected family contribution—

(1) for a dependent student shall be determined in accordance with section 475;

(2) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 476; and

(3) for an independent student with dependents other than a spouse shall be determined in accordance with section 477.

(b) Data Elements.—The following data elements are considered in determining the expected family contribution:

(1) the available income of (A) the student and the student's spouse, or (B) the student and the student's parents, in the case of a dependent student;

(2) the number of dependents in the family of the student;

(3) the number of dependents in the family of the student who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 and for whom the family may reasonably be expected to contribute to their postsecondary education;

(4) the net assets of (A) the student and the student's spouse, and (B) the student and the student's parents, in the case of a dependent student;

(5) the marital status of the student;

(6) the age of the older parent, in the case of a dependent student, and the student; and

(7) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and the student's spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1986.

(20 U.S.C. 1087nn) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1456; amended July 18, 1988, P.L. 100–369, sec. 7(c), 102 Stat. 837; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 587.

SEC. 475. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student, the expected family contribution is equal to the sum of—

(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b));

(2) the student contribution from available income (determined in accordance with subsection (g)); and

(3) the student contribution from assets (determined in accordance with subsection (h)).

(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c)); and

(B) the parents' contribution from assets (determined in accordance with subsection (d));

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

(3) dividing the assessment resulting under paragraph (2) by the number of the family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

(c) PARENTS' AVAILABLE INCOME.—

(1) IN GENERAL.—The parents' available income is determined by deducting from total income (as defined in section 480)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4); and

(E) an employment expense allowance, determined in accordance with paragraph (5).

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 or more
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

Income Protection Allowance

Family Size (including student)	Number in College 1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 478):

(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the parent with the lesser earned income.

(B) If a parent qualifies as a surviving spouse or as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,500 or 35 percent of such parent's earned income.

(d) PARENTS' CONTRIBUTION FROM ASSETS.—

(1) IN GENERAL.—The parents' contribution from assets is equal to—

(A) the parental net worth (determined in accordance with paragraph (2)); minus

(B) the education savings and asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) PARENTAL NET WORTH.—The parental net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value of the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) EDUCATION SAVINGS AND ASSET PROTECTION ALLOWANCE.—The education savings and asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

Education Savings and Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are	
	two parents	one parent
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) ASSET CONVERSION RATE.—The asset conversion rate is 12 percent.

(e) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (b)(1) and hereafter in this subsection referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 478):

Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(f) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, REMARRIAGE, OR DEATH.—

(1) DIVORCED OR SEPARATED PARENTS.—Parental income and assets for a student whose parents are divorced or separated is determined under the following procedures:

(A) Include only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(B) If the preceding criterion does not apply, include only the income and assets of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(C) If neither of the preceding criteria apply, include only the income and assets of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(2) DEATH OF A PARENT.—Parental income and assets in the case of the death of any parent is determined as follows:

(A) If either of the parents has died, the student shall include only the income and assets of the surviving parent.

(B) If both parents have died, the student shall not report any parental income or assets.

(3) REMARRIED PARENTS.—If a parent whose income and assets are taken into account under paragraph (1) of this subsection, or if a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, the income of that parent's spouse shall be included in determining the parent's adjusted available income only if—

(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

(B) the student is not an independent student.

(g) STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—

(1) IN GENERAL.—The student contribution from available income is equal to—

(A) the student's total income (determined in accordance with section 480); minus

(B) the adjustment to student income (determined in accordance with paragraph (2)); multiplied by

(C) the assessment rate as determined in paragraph (5);

except that the amount determined under this subsection shall not be less than zero.

(2) ADJUSTMENT TO STUDENT INCOME.—The adjustment to student income is equal to the sum of—

(A) Federal income taxes of the student;

(B) an allowance for State and other income taxes (determined in accordance with paragraph (3));

(C) an allowance for social security taxes determined in accordance with paragraph (4); and

(D) an income protection allowance of $1,750.

(3) ALLOWANCE FOR STATE AND OTHER INCOME TAXES.—The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(4) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(5) The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

(h) STUDENT CONTRIBUTION FROM ASSETS.—The student contribution from assets is determined by calculating the net assets of the student and multiplying such amount by 35 percent, except that the result shall not be less than zero.

(i) ADJUSTMENTS TO PARENTS' CONTRIBUTION FOR ENROLLMENT PERIODS OTHER THAN 9 MONTHS FOR PURPOSES OTHER THAN SUBPART 2 OF PART A OF THIS TITLE.—For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b)) is determined as follows for purposes other than subpart 2 of part A of this title:

(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

(2) For periods of enrollment greater than 9 months—

(A) the parents' adjusted available income (determined in accordance with subsection (b)(1)) is increased by the difference between the income protection allowance (determined in accordance with subsection (c)(4)) for a family of four and a family of five, each with one child in college;

(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) and adjusted according to subsection (b)(3) to determine a revised parents' contribution from adjusted available income;

(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

(20 U.S.C. 1087oo) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1456; amended June 3, 1987, P.L. 100–50, sec. 14(1)–(12), 101 Stat. 349; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 587; amended December 20, 1993, P.L. 103–208, sec. 2(g)(2)–(5), 107 Stat. 2472.

SEC. 476. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.

(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student without dependents other than a spouse, the expected family contribution is determined by—

(1) adding—

(A) the family's contribution from available income (determined in accordance with subsection (b)); and

(B) the family's contribution from assets (determined in accordance with subsection (c)); and

(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

(b) FAMILY'S CONTRIBUTION FROM AVAILABLE INCOME.—

(1) IN GENERAL.—The family's contribution from income is determined by—

(A) deducting from total income (as defined in section 480)—

(i) Federal income taxes;

(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

(iv) an income protection allowance of—

(I) $3,000 for single students;

(II) $3,000 for married students where both are enrolled pursuant to subsection (a)(2); and

(III) $6,000 for married students where one is enrolled pursuant to subsection (a)(2); and

(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

(B) assessing such available income in accordance with paragraph (5).

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student (and spouse, if appropriate), multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) EMPLOYMENT EXPENSES ALLOWANCE.—The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 478):

(A) If the student is married and the student's spouse is employed in the year for which income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

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(B) If a student is not married, the employment expense allowance is zero.

(5) ASSESSMENT OF AVAILABLE INCOME.—The family's available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed at 50 percent.

(c) FAMILY CONTRIBUTION FROM ASSETS.—

(1) IN GENERAL.—The family's contribution from assets is equal to—

(A) the family's net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the family's contribution from assets shall not be less than zero.

(2) FAMILY'S NET WORTH.—The family's net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) ASSET CONVERSION RATE.—The asset conversion rate is 35 percent.

(d) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.

(20 U.S.C. 1087pp) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1463; amended June 3, 1987, P.L. 100–50, sec. 14(1), (3), (4), (13)–(17), 101 Stat. 349, 351; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 594; amended December 20, 1993, P.L. 103–208, sec. 2(g)(6), 107 Stat. 2472.

SEC. 477. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.

(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student with dependents other than a spouse, the expected family contribution is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the family's available income (determined in accordance with subsection (b)); and

(B) the family's contribution from assets (determined in accordance with subsection (c));

(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d); and

(3) dividing the assessment resulting under paragraph (2) by the number of family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

(b) FAMILY'S AVAILABLE INCOME.—

(1) IN GENERAL.—The family's available income is determined by deducting from total income (as defined in section 480)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4); and

(E) an employment expense allowance, determined in accordance with paragraph (5).

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And family's total income is—	
	less than $15,000	$15,000 or more
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount estimated to be earned by the student (and spouse, if appropriate) multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

Income Protection Allowance

Family Size (including student)	Number in College 1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows (or a successor table prescribed by the Secretary under section 478):

(A) If the student is married and the student's spouse is employed in the year for which their income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student qualifies as a surviving spouse or as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,500 or 35 percent of the student's earned income.

(c) FAMILY'S CONTRIBUTION FROM ASSETS.—

(1) IN GENERAL.—The family's contribution from assets is equal to—

(A) the family net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) FAMILY NET WORTH.—The family net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) ASSET CONVERSION RATE.—The asset conversion rate is 12 percent.

(d) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (a)(1) and hereafter referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 478):

Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(e) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, OR DEATH.—In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.

(20 U.S.C. 1087qq) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1465; amended June 3, 1987, P.L. 100–50, sec. 14(1)–(6), (8), (18), (19), 101 Stat. 349, 350, 351; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 597; amended December 20, 1993, P.L. 103–208, sec. 2(g)(2), (7), 107 Stat. 2472.

SEC. 478. REGULATIONS; UPDATED TABLES.

(a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

(A) to prescribe updated tables in accordance with subsections (b) through (h) of this section; or

(B) to propose modifications in the need analysis methodology required by this part.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (h) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (h) of this section.

(b) INCOME PROTECTION ALLOWANCE.—For each academic year after academic year 1993–1994, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 475(c)(4) and 477(b)(4). Such revised table shall be developed by increasing each of the dollar amounts contained in the table in each such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(c) ADJUSTED NET WORTH OF A FARM OR BUSINESS.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for purposes of sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C). Such revised table shall be developed—

(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such award year, and rounding the result to the nearest $5,000; and

(2) by adjusting the dollar amounts "$30,000", "$105,000", and "$195,000" to reflect the changes made pursuant to paragraph (1).

(d) EDUCATION SAVINGS AND ASSET PROTECTION ALLOWANCE.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of allowances for the purpose of sections 475(d)(3), 476(c)(3), and 477(c)(3). Such revised table shall be developed by determining the present value cost, rounded to the nearest $100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics), and the current average social security retirement benefits. For each age cohort below 40, the allowance shall be computed by decreasing the allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

(1) inflation shall be presumed to be 6 percent per year;

(2) the rate of return of an annuity shall be presumed to be 8 percent; and

(3) the sales commission on an annuity shall be presumed to be 6 percent.

(e) ASSESSMENT SCHEDULES AND RATES.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 475(e) and 477(d). Such revised table shall be developed—

(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

(f) DEFINITION OF CONSUMER PRICE INDEX.—As used in this section, the term "Consumer Price Index" means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

(g) STATE AND OTHER TAX ALLOWANCE.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2). The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent.

(h) EMPLOYMENT EXPENSE ALLOWANCE.—For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of employment expense allowances for the purpose of sections 475(c)(5), 476(b)(4), and 477(b)(5). Such revised table shall be developed by increasing the dollar amount specified in sections 475(c)(5)(A), 475(c)(5)(B), 476(b)(4)(A), 476(b)(4)(B), 477(b)(5)(A), and 477(b)(5)(B) to reflect increases in the amount and percent of the Bureau of Labor Statistics budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

(20 U.S.C. 1087rr) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1470; amended June 3, 1987, P.L. 100–50, sec. 14(20)–(22), 101 Stat. 351; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 602; amended December 20, 1993, P.L. 103–208, sec. 2(g)(8) and (9), 107 Stat. 2472.

SEC. 479. SIMPLIFIED NEEDS TESTS.

(a) SIMPLIFIED APPLICATION SECTION.—

(1) IN GENERAL.—The Secretary shall develop and use an easily identifiable simplified application section as part of the common financial reporting form prescribed under section 483(a) for families described in subsections (b) and (c) of this section.

(2) REDUCED DATA REQUIREMENTS.—The simplified application form shall—

(A) in the case of a family meeting the requirements of subsection (b)(1), permit such family to submit only the data elements required under subsection (b)(2) for the purposes of establishing eligibility for student financial aid under this part; and

(B) in the case of a family meeting the requirements of subsection (c), permit such family to be treated as having an expected family contribution equal to zero for purposes of establishing such eligibility and to submit only the data elements required to make a determination under subsection (c).

(b) SIMPLIFIED NEEDS TEST.—

(1) ELIGIBILITY.—An applicant is eligible to file a simplified form containing the elements required by paragraph (2) if—

(A) in the case of an applicant who is a dependent student—

(i) the student's parents file or are eligible to file a form described in paragraph (3) or certify that they are not required to file an income tax return and the student files or is eligible to file such a form or certifies that the student is not required to file an income tax return; and

(ii) the total adjusted gross income of the parents (excluding any income of the dependent student) is less than $50,000; or

(B) in the case of an applicant who is an independent student—

(i) the student (and the student's spouse, if any) files or is eligible to file a form described in paragraph (3) or certifies that the student (and the student's spouse, if any) is not required to file an income tax return; and

(ii) the adjusted gross income of the student (and the student's spouse, if any) is less than $50,000.

(2) SIMPLIFIED TEST ELEMENTS.—The six elements to be used for the simplified needs analysis are—

(A) adjusted gross income,

(B) Federal taxes paid,

(C) untaxed income and benefits,

(D) the number of family members,

(E) the number of family members in postsecondary education, and

(F) an allowance (A) for State and other taxes, as defined in section 475(c)(2) for dependent students and in section 477(b)(2) for independent students with dependents other than a spouse, or (B) for State and other income taxes, as defined in section 476(b)(2) for independent students without dependents other than a spouse.

(3) QUALIFYING FORMS.—A student or family files a form described in this paragraph if the student or family, respectively, files—

(A) a form 1040A or 1040EZ (including any prepared or electronic version of such form) required pursuant to the Internal Revenue Code of 1986; or

(B) an income tax return (including any prepared or electronic version of such return) required pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

(c) ZERO EXPECTED FAMILY CONTRIBUTION.—The Secretary shall consider an applicant to have an expected family contribution equal to zero if—

(1) in the case of a dependent student—

(A) the student's parents were not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and

(B) the sum of the adjusted gross income of the parents is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit; or

(2) in the case of an independent student with dependents other than a spouse—

(A) the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of the Internal Revenue Code of 1986; and

(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit.

An individual is not required to qualify or file for the earned income credit in order to be eligible under this subsection.

(20 U.S.C. 1087ss) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1472; amended June 3, 1987, P.L. 100–50, sec. 14(23)–(25), 101 Stat. 352; amended April 9, 1991, P.L. 102–26, sec. 11, 105 Stat. 129; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 604; amended December 20, 1993, P.L. 103–208, sec. 2(g)(10)–(15), 107 Stat. 2472–73.

SEC. 479A. DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.

(a) IN GENERAL.—Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this title. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

(b) ADJUSTMENTS TO ASSETS TAKEN INTO ACCOUNT.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if—

(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

(c) ADJUSTMENTS FOR SPECIAL CIRCUMSTANCES.—

(1) IN GENERAL.—A student financial aid administrator shall be considered to be making an adjustment for special circumstances in accordance with subsection (a) if—

(A) in the case of a dependent student—

(i) such student received a Federal Pell Grant as a dependent student in academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992; and

(B) in the case of a single independent student—

(i) such student received a Federal Pell Grant as a single independent student in academic year 1992–1993 and qualified as an independent student in accordance with section 480(d) for academic year 1993–1994, and the amount of such student's Federal Pell Grant for academic year 1993–1994 is at least $500 less than the amount of such student's Federal Pell Grant for academic year 1992–1993; and

(ii) the decrease described in clause (i) is the direct result of a change in the determination of such student's need for assistance in accordance with this part that is attributable to the enactment of the Higher Education Amendments of 1992.

(2) AMOUNT.—A financial aid administrator shall not make an adjustment for special circumstances pursuant to this subsection in an amount that exceeds one-half of the difference between the amount of a student's Federal Pell Grant for academic year 1992–1993 and the amount of such student's Federal Pell Grant for academic year 1993–1994.

(3) ACADEMIC YEAR LIMITATION.—A financial aid administrator shall make adjustments under this subsection only for Federal Pell Grants awarded for academic years 1993–1994, 1994–1995, and 1995–1996.

(4) SPECIAL RULE.—Adjustments under this subsection shall be made in any fiscal year only if an Act that contains an appropriation for such fiscal year to carry out this subsection is enacted on or after the date of enactment of the Higher Education Technical Amendments of 1993.

(5) LIMITATION.—Adjustments under this subsection shall not be available for any academic year to any student who, on the basis of the financial circumstances of the student for the current academic year, would not have been eligible for a grant under this section in academic year 1992–1993.

(20 U.S.C. 1087tt) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1472; amended June 3, 1987, P.L. 100–50, sec. 14(26), 101 Stat. 352; amended December 19, 1989, P.L. 101–239, sec. 2009, 103 Stat. 2122–2123; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 605; amended December 20, 1993, P.L. 103–208, sec. 2(g)(16), 107 Stat. 2473.

SEC. 479B. DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

Notwithstanding any other provision of law, student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any

Federal, State, or local program financed in whole or in part with Federal funds.

(20 U.S.C. 1087uu) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1472; amended June 3, 1987, P.L. 100–50, sec. 14(27), 101 Stat. 353; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 606.

SEC. 479C. NATIVE AMERICAN STUDENTS.

In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act; and

(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act or the Maine Indian Claims Settlement Act.

(20 U.S.C. 1087uu–1) Enacted June 3, 1987, P.L. 100–50, sec. 14(27), 101 Stat. 353; amended July 23, 1992, P.L. 102–325, sec. 471(a), 106 Stat. 606.

SEC. 480. DEFINITIONS.

As used in this part:

(a) Total Income.—(1) Except as provided in paragraph (2), the term "total income" is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e)).

(2) No portion of any student financial assistance received from any program by an individual, and no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.), shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this Act.

(b) Untaxed Income and Benefits.—The term "untaxed income and benefits" means—

(1) child support received;

(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

(3) workman's compensation;

(4) veterans' benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c);

(5) interest on tax-free bonds;

(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

(7) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by the student's parents;

(8) the amount of earned income credit claimed for Federal income tax purposes;

(9) untaxed portion of pensions;

(10) credit for Federal tax on special fuels;

(11) the amount of foreign income excluded for purposes of Federal income taxes;

(12) untaxed social security benefits;

(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

(c) VETERAN AND VETERANS' EDUCATION BENEFITS.—(1) The term "veteran" means any individual who—

(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

(B) was released under a condition other than dishonorable.

(2) The term "veterans' education benefits" means veterans' benefits the student will receive during the award year, including but not limited to the following:

(A) United States Code, title 10, chapter 2: Reserve Officer Training Corps scholarship.

(B) United States Code, title 10, chapter 106: Selective Reserve.

(C) United States Code, title 10, chapter 107: Selective Reserve Educational Assistance Program.

(D) United States Code, title 37, chapter 2: Reserve Officer Training Corps Program.

(E) United States Code, title 38, chapter 30: Montgomery GI Bill—active duty.

(F) United States Code, title 38, chapter 31: vocational rehabilitation.

(G) United States Code, title 38, chapter 32: Post-Vietnam Era Veterans' Educational Assistance Program.

(H) United States Code, title 38, chapter 35: Dependents Educational Assistance Program.

(I) Public Law 97–376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits).

(J) Public Law 96–342, section 903: Educational Assistance Pilot Program.

(d) INDEPENDENT STUDENT.—The term "independent", when used with respect to a student, means any individual who—

(1) is 24 years of age or older by December 31 of the award year;

(2) is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;

(3) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1));

(4) is a graduate or professional student;

(5) is a married individual;

(6) has legal dependents other than a spouse; or

(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(e) EXCLUDABLE INCOME.—The term "excludable income" means—

(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of this title;

(2) any living allowance received by a participant in a program established under the National and Community Service Act of 1990;

(3) child support payments made by the student or parent; and

(4) payments made and services provided under part E of title IV of the Social Security Act.

(f) ASSETS.—(1) The term "assets" means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

(2) With respect to determinations of need under this title, other than for subpart 4 of part A, the term "assets" shall not include the net value of—

(A) the family's principal place of residence; or

(B) a family farm on which the family resides.

(g) NET ASSETS.—The term "net assets" means the current market value at the time of application of the assets (as defined in subsection (f)), minus the outstanding liabilities or indebtedness against the assets.

(h) TREATMENT OF INCOME TAXES PAID TO OTHER JURISDICTIONS.—(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

(2) References in this part to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

(i) CURRENT BALANCE.—The term "current balance of checking and savings accounts" does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

(j) OTHER FINANCIAL ASSISTANCE; TUITION PREPAYMENT PLANS.—(1) For purposes of determining a student's eligibility for funds under this title, estimated financial assistance not received under this title shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made, including veterans' education benefits as defined in subsection (c).

(2)(A) Except as provided in subparagraph (B), for purposes of determining a student's eligibility for funds under this title, tuition prepayment plans shall reduce the cost of attendance (as determined under section 472) by the amount of the prepayment, and shall not be considered estimated financial assistance.

(B) If the institutional expense covered by the prepayment must be part of the student's cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance.

(3) Notwithstanding paragraph (1), a national service educational award or post-service benefit under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.) shall not be treated as financial assistance for purposes of section 471(3).

(k) DEPENDENTS.—(1) Except as otherwise provided, the term "dependent of the parent" means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

(2) Except as otherwise provided, the term "dependent of the student" means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

(l) FAMILY SIZE.—(1) In determining family size in the case of a dependent student—

(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

(2) In determining family size in the case of an independent student—

(A) family members include the student, the student's spouse, and the dependents of the student; and

(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

(m) BUSINESS ASSETS.—The term "business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(20 U.S.C. 1087vv) Enacted October 17, 1986, P.L. 99–498, sec. 406(a), 100 Stat. 1472; amended June 3, 1987, P.L. 100–50, sec. 14(28), 101 Stat. 353–355; amended July 18, 1988, P.L. 100–369, sec. 7(b), 102 Stat. 837; amended November 16, 1990, P.L. 101–610, sec. 185(4), 104 Stat. 3168; amended July 23, 1992, P.L. 102–325, sec.

471(a), 106 Stat. 606; amended September 21, 1993, P.L. 103–82, sec. 102(c)(4), (5), 107 Stat. 824; amended December 20, 1993, P.L. 103–208, sec. 2(g)(17)–(20), 107 Stat. 2474–75.

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

SEC. 481. DEFINITIONS.

(a) INSTITUTION OF HIGHER EDUCATION.—(1) Subject to paragraphs (2) through (4) of this subsection, the term "institution of higher education" for purposes of this title includes, in addition to the institutions covered by the definition in section 1201(a)—

(A) a proprietary institution of higher education;

(B) a postsecondary vocational institution; and

(C) only for the purposes of part B of this title, an institution outside the United States which is comparable to an institution of higher education as defined in section 1201(a) and which has been approved by the Secretary for the purpose of part B.

(2)(A) For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1201(a). In the case of a graduate medical school outside the United States, such criteria shall include a requirement that a student attending a graduate medical school outside the United States is ineligible for loans made, insured, or guaranteed under part B of this title unless—

(i)(I) at least 60 percent of those enrolled and at least 60 percent of the graduates of the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of this title; and

(II) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of this title; or

(ii) the institution's clinical training program was approved by a State as of January 1, 1992.

(B) For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish an advisory panel of medical experts which shall—

(i) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(ii) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

If such accreditation standards are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1201(a).

(C) The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) of this paragraph shall render such institution ineligible for the purpose of part B of this title.

(D) The Secretary shall, not later than one year after the date of enactment of the Higher Education Amendments of 1992, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the regulations required by subparagraph (A) of this paragraph.

(E) If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under this title, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1), if such institution—

(A) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;

(B) enrolls 50 percent or more of its students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the prohibition of this subparagraph for a nonprofit institution that provides a 4-year or a 2-year program of instruction (or both) for which it awards a bachelor's or associate's degree, respectively; or

(D) has a student enrollment in which more than 50 percent of the students do not have a high school diploma or its recognized equivalent and does not provide a 4-year or a 2-year program of instruction (or both) for which it awards a bachelor's or associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent.

(4) An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy; or

(B) the institution, its owner, or its chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title.

(5) The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part H.

(6) An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under this title as a result of an action pursuant to part H of this title.

(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—For the purpose of this section, the term "proprietary institution of higher education" means a school (1) which provides an eligible program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary pursuant to part H of this title, (5) which has been in existence for at least 2 years, and (6) which has at least 15 percent of its revenues from sources that are not derived from funds provided under this title, as determined in accordance with regulations prescribed by the Secretary. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) POSTSECONDARY VOCATIONAL INSTITUTION.—For the purpose of this section, the term "postsecondary vocational institution" means a school (1) which provides an eligible program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least 2 years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(d) ACADEMIC AND AWARD YEAR.—(1) For the purpose of any program under this title, the term "award year" shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2) For the purpose of any program under this title, the term "academic year" shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock

hours at an institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.

(e) ELIGIBLE PROGRAM.—(1) For purposes of this title, the term "eligible program" means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

(ii) a graduate or professional program.

(2)(A) A program is an eligible program for purposes of part B of this title if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.

(f) THIRD PARTY SERVICER.—For purposes of this title, the term "third party servicer" means any individual, or any State, or private, profit or nonprofit organization which enters into a contract with—

(1) any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution's student assistance programs under this title; or

(2) any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency's or lender's student loan programs under part B of this title, including originating, guaranteeing, monitoring, processing, servicing, or collecting loans.

(20 U.S.C. 1088) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1444; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1476; amended June 3, 1987, P.L. 100–50, sec. 15(1), 101 Stat. 355; amended December 19, 1989, P.L. 101–239, secs. 2007 (b) and (c), 103 Stat. 2120, 2121; amended November 5, 1990, P.L. 101–508, sec. 3005(b), 104 Stat.1388–28; amended April 9, 1991, P.L. 102–26, sec. 2(a)(2) and (3), 105 Stat. 123; amended July 23, 1992, P.L. 102–325, sec. 481,

106 Stat. 609; amended December 20, 1993, P.L. 103–208, sec. 2(h)(1)–(6), 107 Stat. 2475–76.

SEC. 482. MASTER CALENDAR.

(a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.—To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the technical committee on forms design of the Department;

(B) by March 1: proposed modifications and updates pursuant to section 478 published in the Federal Register;

(C) by June 1: final modifications and updates pursuant to section 478 published in the Federal Register;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to the Department;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions to the Department;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(b) TIMING FOR REALLOCATIONS.—With respect to any funds reallocated under section 413D(e), 442(e), or 462(j), the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 3 of part A, part C, and part E, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—Any regulatory changes initiated by the Secretary affecting the programs pursuant to this title that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date. For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting parts B, G, and H of this title that are published in final form by May 1, 1994.

(d) NOTICE TO CONGRESS.—The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice. When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

(20 U.S.C. 1089) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1445; amended April 7, 1986, P.L. 99–272, sec. 1089, 100 Stat. 354; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1477; amended June 3, 1987, P.L. 100–50, sec. 15(2), 101 Stat. 355; amended July 23, 1992, P.L. 102–325, sec. 482, 106 Stat. 612; amended December 20, 1993, P.L. 103–208, sec. 2(h)(7), (m), 107 Stat. 2476, 2486.

SEC. 483. FORMS AND REGULATIONS.

(a) COMMON FINANCIAL AID FORM AND PROCESSING.—

(1) SINGLE FORM REQUIRED.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A, C, D, and E of this title (other than under subpart 4 of part A) and to determine the need of a student for the purpose of part B of this title. The Secretary may include on the form developed pursuant to this paragraph not more than eight nonfinancial data items selected in consultation with the States to assist the States in awarding State student financial assistance. Such form shall satisfy the requirements of section 401(d) of this title. For the purpose of collecting eligibility and other data for the purpose of part B, the Secretary shall develop a separate, identifiable loan application document (pursuant to section 432(m)) that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of a lender.

(2) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORM PROHIBITED.—The common financial reporting form prescribed by the Secretary under paragraph (1) shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee for the collection, processing, or de-

livery of financial aid through the use of such form. The need and eligibility of a student for financial assistance under parts A, C, D, and E of this title (other than under subpart 4 of part A) and the need of a student for the purpose of part B of this title, may only be determined by using the form developed by the Secretary pursuant to paragraph (1) of this subsection. No student may receive assistance under parts A, C, D, and E of this title (other than under subpart 4 of part A) or have the student's need established for the purpose of part B of this title, except by use of the form developed by the Secretary pursuant to this section. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).

(3) DISTRIBUTION OF DATA.—Institutions of higher education and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.

(4) CONTRACTS FOR COLLECTION AND PROCESSING.—(A) The Secretary shall, to the extent practicable, enter into not less than 5 contracts with States, institutions of higher education, or private organizations for the purposes of the timely collection and processing of the form developed pursuant to paragraph (1) and the timely delivery of the data submitted on such form. The Secretary shall use such contracts to assist States and institutions of higher education with the collection of additional data required to award State or institutional financial assistance, except that the Secretary shall not include these additional data items on the common financial reporting form developed pursuant to this section. The Secretary shall include in each such contract a requirement that—

(i) any charges by the contractor to the student or parent for additional data items required by a State or institution for any purpose (regardless of the method of collection) shall be reasonable and shall not exceed the marginal cost of collecting, processing, and delivering such additional data, taking into account any payment received by the contractor to produce, distribute, and process the common financial reporting form prescribed by the Secretary pursuant to paragraph (1); and

(ii) the contractor will require any person or entity to whom the contractor provides such additional data to agree not to collect from any student or parent any charge that would not be permitted under this subparagraph for any such additional data.

(B) To the extent practicable, the Secretary shall ensure that at least one contractor, or a portion of one contract, under this paragraph will serve graduate and professional students.

(C) As part of the procurement process for the 1993–1994 award year, and for all procurements thereafter pertaining to the contracts under this paragraph, the Secretary shall require all entities competing for such contracts to comply with all requirements of this subsection and to—

(i) use the common financial reporting form as prescribed in paragraph (1), which shall be clearly identified as the "Free Application for Federal Student Aid"; and

(ii) use a common, simplified reapplication form as the Secretary shall prescribe pursuant to subsection (b), in each award year.

(D) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

(E) All approved contractors shall be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

(F) No approved contractor shall enter into exclusive arrangements with guarantors, lenders, secondary markets, or institutions of higher education for the purpose of reselling or sharing of data collected for the multiple data entry process. All data collected under a contract issued by the Secretary pursuant to this paragraph for the multiple data entry process is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's express written approval.

(b) STREAMLINED REAPPLICATION PROCESS.—(1) The Secretary shall, within 240 days after the date of enactment of the Higher Education Amendments of 1992, develop a streamlined reapplication form and process, including electronic reapplication process, consistent with the requirements of subsection (a), for those recipients who apply for financial aid funds under this title in the next succeeding academic year subsequent to the initial year in which such recipients apply.

(2) The Secretary shall develop appropriate mechanisms to support reapplication.

(3) The Secretary shall determine, in cooperation with States, institutions of higher education, agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

(4) Nothing in this title shall be interpreted as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

(5) Individuals determined to have a zero family contribution pursuant to section 479 shall not be required to provide any financial data, except that which is necessary to determine eligibility under that section.

(c) INFORMATION TO COMMITTEES OF CONGRESS.—Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least 45 days prior to their effective date.

(d) TOLL-FREE INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education that is authorized under section 633(c) of the Individuals with Disabilities Education Act.

(e) PREPARER.—Any financial aid application required to be made under this title shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such financial aid application.

(f) SPECIAL RULE.—Nothing in section 1544 of the Higher Education Amendments of 1992 shall relieve processors or institutions of higher education of any or all obligations under this section.

(20 U.S.C. 1090) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1478; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1478; amended June 3, 1987, P.L. 100–50, sec. 15(3)–(6), 101 Stat. 356; amended July 23, 1992, P.L. 102–325, sec. 483, 106 Stat. 612; amended December 20, 1993, P.L. 103–208, sec. 2(h)(8)–(12), (m), 107 Stat. 2476, 2486.

SEC. 484. STUDENT ELIGIBILITY.

(a) IN GENERAL.—In order to receive any grant, loan, or work assistance under this title, a student must—

(1) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487, except as provided in subsections (b)(3) and (b)(4), and not be enrolled in an elementary or secondary school;

(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c);

(3) not owe a refund on grants previously received at any institution under this title, or be in default on any loan from a student loan fund at any institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document, which need not be notarized, but which shall include—

(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(B) such student's social security number, except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau;

(5) be a citizen or national of the United States, a permanent resident of the United States, able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident, or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands.

(b) ELIGIBILITY FOR STUDENT LOANS.—(1) In order to be eligible to receive any loan under this title (other than a loan under section 428B or 428C) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or

(B) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period, and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

(2) In order to be eligible to receive any loan under section 428A for any period of enrollment, a student shall—

(A) have received a determination of need for a loan under section 428(a)(2)(B) of this title;

(B) if determined to have need for a loan under section 428, have applied for such a loan; and

(C) has applied for a loan under section 428H, if such student is eligible to apply for such a loan.

(3) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B or D of this title. The eligibility described in this paragraph shall be restricted to one 12-month period.

(4) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B, D, or E or work-study assistance under part C of this title.

(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this title.

(c) SATISFACTORY PROGRESS.—(1) For the purpose of subsection (a)(2), a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) for a grant, loan, or work assistance under this title.

(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

(A) the death of a relative of the student,

(B) the personal injury or illness of the student, or

(C) special circumstances as determined by the institution.

(d) STUDENTS WHO ARE NOT HIGH SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, D, and E of this title, the student shall meet either one of the following standards:

(1) The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

(2) The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves such process. In determining whether to approve or disapprove such process, the Secretary shall take into account the effectiveness of such process in enabling students without high school diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

(e) CERTIFICATION FOR GSL ELIGIBILITY.—Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this title prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this title, if—

(1) checks for the loans are mailed to the eligible institution prior to disbursements;

(2) the disbursement is not made until the review is complete; and

(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

(f) LOSS OF ELIGIBILITY FOR VIOLATION OF LOAN LIMITS.—(1) No student shall be eligible to receive any grant, loan, or work assistance under this title if the eligible institution determines that the student fraudulently borrowed in violation of the annual loan limits under part B, part D, or part E of this title in the same academic year, or if the student fraudulently borrowed in excess of the aggregate maximum loan limits under such part B, part D, or part E.

(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this title.

(g) VERIFICATION OF IMMIGRATION STATUS.—

(1) IN GENERAL.—The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this title.

(2) SPECIAL RULE.—The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a) to verify eligibility to participate in work-study programs under part C of this title.

(3) VERIFICATION MECHANISMS.—The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

(4) REVIEW.—In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitute reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(h) LIMITATIONS OF ENFORCEMENT ACTIONS AGAINST INSTITUTIONS.—The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (h)(4)(A)(i), was required to provide a reasonable opportunity to submit documentation, or

(3) because the institution, under subsection (h)(4)(B)(i), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student.

(i) VALIDITY OF LOAN GUARANTEES FOR LOAN PAYMENTS MADE BEFORE IMMIGRATION STATUS VERIFICATION COMPLETED.—Notwithstanding subsection (h), if—

(1) a guaranty is made under this title for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h) had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

(j)[1] STUDENTS ATTENDING INSTITUTIONS IN THE FREELY ASSOCIATED STATES AND ELIGIBILITY FOR TRIO PROGRAMS.—Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A or part C of this title.

(k) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive grant, loan, or work assistance under this title for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

(l) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses.

(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive grants, loans, or work assistance under this title shall be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to such student.

(3) SPECIAL RULE.—For award years prior to the date of enactment of this subsection, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this title if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

(4) DEFINITION.—For the purposes of this subsection, the term "telecommunications" means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that such term does not include a course that is delivered using video cassette or disc recordings at such institution and that is not delivered in person to other students of that institution.

(m)[2] STUDENTS WITH A FIRST BACCALAUREATE OR PROFESSIONAL DEGREE.—A student shall not be ineligible for assistance under parts B, C, D, and E of this title because such student has previously received a baccalaureate or professional degree.

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[1] Section 801(a) of P.L. 102–73 added subsection (k) to section "484 of the Act (20 U.S.C. 1091)".

[2] Section 484(g) of the Higher Education Amendments of 1992 inserts a new subsection (n). Section 2(k)(8) of the Higher Education Technical Amendments of 1993 amended section 484 of

(n) DATA BASE MATCHING.—To enforce the Selective Service registration provisions of section 1113 of Public Law 97–252, the Secretary shall conduct data base matches with the Selective Service, using common demographic data elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate statement of compliance. In the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration, or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed by the Secretary in regulations.

(o) STUDY ABROAD.—Nothing in this Act shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive grant, loan, or work assistance under this title, without regard to whether such study abroad program is required as part of the student's degree program.

(p) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) and shall enforce the following conditions:

(1) Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this part because social security number verification is pending.

(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this title until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this title, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall not be void-

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the Higher Education Amendments of 1992 by inserting after subsection (h) a new subsection (i) as follows:

"(i) EFFECTIVE DATE.—The amendments made by subsection (g) with respect to the addition of subsection (n) shall be effective on and after December 1, 1987.";

Section 484(n) was redesignated as subsection (m) by section 2(h)(25) of the Higher Education Amendments of 1993.

ed or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

(20 U.S.C. 1091) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1448; amended April 7, 1986, P.L. 99–272, sec. 16032, 100 Stat. 354; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1479; amended Nov. 6, 1986, P.L. 99–603, sec. 121(a)(3), 100 Stat. 3388; amended June 3, 1987, P.L. 100–50, sec. 15(7)–(9), 101 Stat. 356; amended July 18, 1988, P.L. 100–369, secs. 1, 2, and 6, 102 Stat. 835–836; amended October 24, 1988, P.L. 100–525, sec. 2(g), 102 Stat. 2611; amended November 5, 1990, P.L. 101–508, sec. 3005(a), 104 Stat.1388–27; amended April 9, 1991, P.L. 102–26, sec. 2(b) and (c)(2), 105 Stat. 123; amended July 25, 1991, P.L. 102–73, 801(a), 105 Stat.359; amended July 23, 1992, P.L. 102–325, sec. 484, 106 Stat. 615; amended December 20, 1993, P.L. 103–208, sec. 2(h)(13)–(25), (m), 107 Stat. 2476–77, 2486.

SEC. 484A. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

(A) an institution that receives funds under this title that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this title;

(B) a guaranty agency that has an agreement with the Secretary under section 428(c) that is seeking the repayment of the amount due from a borrower on a loan made under part B of this title after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 453 or 463(a) that is seeking the repayment of the amount due from a borrower on a loan made under part D or E of this title after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this title, or for the repayment of the amount due from a borrower on a loan made under this title that has been assigned to the Secretary under this title.

(b) ASSESSMENT OF COSTS AND OTHER CHARGES.—Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

(20 U.S.C. 1091a) Enacted April 7, 1986, P.L. 99–272, sec. 16033, 100 Stat. 355; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1482; amended April 9, 1991, P.L. 102–26, sec. 3(a), 105 Stat. 124; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 484B. INSTITUTIONAL REFUNDS.

(a) REFUND POLICY REQUIRED.—Each institution of higher education participating in a program under this title shall have in effect a fair and equitable refund policy under which the institution refunds unearned tuition, fees, room and board, and other charges to a student who received grant or loan assistance under this title, or whose parent received a loan made under section 428B on behalf of the student, if the student—

(1) does not register for the period of attendance for which the assistance was intended; or

(2) withdraws or otherwise fails to complete the period of enrollment for which the assistance was provided.

(b) DETERMINATIONS.—The institution's refund policy shall be considered to be fair and equitable for purposes of this section if that policy provides for a refund in an amount of at least the largest of the amounts provided under—

(1) the requirements of applicable State law;

(2) the specific refund requirements established by the institution's nationally recognized accrediting agency and approved by the Secretary; or

(3) the pro rata refund calculation described in subsection (c), except that this paragraph will not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the 60 percent point (in time) in the period of enrollment for which the student has been charged.

(c) DEFINITIONS.—(1) As used in this section, the term "pro rata refund" means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student, rounded downward to the nearest 10 percent of that period, less any unpaid charges owed by the student for the period of enrollment for which the student has been charged, and less a reasonable administrative fee not to exceed the lesser of 5 percent of the tuition, fees, room and board, and other charges assessed the student, or $100.

(2) For purposes of paragraph (1), "the portion of the period of enrollment for which the student has been charged that remains", shall be determined—

(A) in the case of a program that is measured in credit hours, by dividing the total number of weeks comprising the period of enrollment for which the student has been charged into the number of weeks remaining in that period as of the last recorded day of attendance by the student;

(B) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the period of enrollment for which the student has been charged into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance by the student; and

(C) in the case of a correspondence program, by dividing the total number of lessons comprising the period of enrollment for which the student has been charged into the total number of such lessons not submitted by the student.

(20 U.S.C. 1091b) Enacted July 23, 1992, P.L. 102–325, sec. 485(a), 106 Stat. 619; amended December 20, 1993, P.L. 103–208, sec. 2(h)(26) and (27), 107 Stat. 2477.

SEC. 485. INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS.

(a) INFORMATION DISSEMINATION ACTIVITIES.—(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this title;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of the refund policy of the institution, as determined under section 484B, for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph, which refunds shall be credited in the following order:

(i) to outstanding balances on loans under part B of this title for the period of enrollment for which a refund is required,

(ii) to outstanding balances on loans under part D of this title for the period of enrollment for which a refund is required,

(iii) to outstanding balances on loans under part E of this title for the period of enrollment for which a refund is required,

(iv) to awards under subpart 1 of part A of this title,

(v) to awards under subpart 3 of part A of this title,

(vi) to other student assistance, and

(vii) to the student;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to handicapped students;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing;

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(2);

(L) the completion or graduation rate of certificate- or degree-seeking, full-time, undergraduate[1] students entering such institutions;

(M) the terms and conditions under which students receiving guaranteed student loans under part B of this title or direct student loans under part E of this title, or both, may—

(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501) et seq.)) or under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), or for comparable full-time[1] service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service, and

(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or, for comparable full-time[1] service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service; and

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[1] Amendment made by sec. 10(a) of P.L. 102–26, 105 Stat. 128, inserted "undergraduate" after "full-time" without futher specification.

(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance.

(2) For the purpose of this section, the term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e), a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

(A) shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and

(B) shall cover the one-year period ending on June 30 of the preceding year.

(4) For purposes of this section, institutions may exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

(5) The Secretary shall permit any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection, to use such data to satisfy the requirements of this subsection; and

(b) EXIT COUNSELING FOR BORROWERS.—(1)(A) Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers (individually or in groups) of loans which are made, insured, or guaranteed under part B (other than loans made pursuant to section 428B) of this title or made under part D or E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

(i) the average anticipated monthly repayments, a review of the repayment options available, and such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness; and

(ii) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest pursuant to sections 428(b), 464(c)(2), and 465.

(B) In the case of borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information described in subparagraph (A) to the student in writing.

(2)(A) Each eligible institution shall require that the borrower of a loan made under part B, D, or E submit to the institution, during the exit interview required by this subsection—

(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

(ii) the name and address of the borrower's expected employer after leaving the institution;

(iii) the address of the borrower's next of kin; and

(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower to the guaranty agency indicated on the borrower's student aid records.

(c) FINANCIAL ASSISTANCE INFORMATION PERSONNEL.—Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(d) DEPARTMENTAL PUBLICATION OF DESCRIPTIONS OF ASSISTANCE PROGRAMS.—The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this title. In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

(e) DISCLOSURES REQUIRED WITH RESPECT TO ATHLETICALLY RELATED STUDENT AID.—(1) Each institution of higher education which participates in any program under this title and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(B) the number of students at the institution of higher education, broken down by race and sex;

(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1).

(3) For purposes of this subsection, institutions may exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

(A) individual institutions of higher education; and

(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on completion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

(8) For purposes of this subsection, the term "athletically related student aid" means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance.

(9) This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending June 30 of the preceding year.

(f) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—(1) Each eligible institution participating in any program under this title shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

(i) murder;

(ii) sex offenses, forcible or nonforcible;

(iii) robbery;

(iv) aggravated assault;

(v) burglary; and

(vi) motor vehicle theft.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) Statistics concerning the number of arrests for the following crimes occurring on campus:

(i) liquor law violations;

(ii) drug abuse violations; and

(iii) weapons possessions.

(I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1213 of this Act.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this title shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

(4) Upon the request of the Secretary, each institution participating in any program under this title shall submit to the Secretary a copy of the statistics required to be made available under paragraphs (1)(F) and (1)(H). The Secretary shall—

(A) review such statistics and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 1995; and

(B) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(5)(A) For purposes of this subsection, the term "campus" includes—

(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

(ii) any building or property owned or controlled by student organizations recognized by the institution.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(6) The statistics described in paragraphs (1)(F) and (1)(H) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.

(7)(A) Each institution of higher education participating in any program under this title shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

(ii) the procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

(20 U.S.C. 1092) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1449; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1482; amended June 3, 1987, P.L. 100–50, sec. 15(10)–(11), 101 Stat. 357; amended November 8, 1990, P.L. 101–542, sec. 103 (a) and (b), sec. 104(a), sec. 204(a), 104 Stat. 2381–2382, 2383–2384, 2385–2387; amended November 16, 1990, P.L. 101–610, secs. 201, 202, and 203, 104 Stat. 3171–3172; amended April 9, 1991, P.L. 102–26, sec. 10, 105 Stat. 128; amended November 15, 1991, P.L. 102–164, sec. 603, 105 Stat. 1066; amended July 23, 1992, P.L. 102–325, sec. 486, 106 Stat. 620; amended December 20, 1993, P.L. 103–208, sec. 2(h)(28)–(37), (k)(9), (m), 107 Stat. 2477, 2486.

SEC. 485A. COMBINED PAYMENT PLAN.

(a) ELIGIBILITY FOR PLAN.—Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 428C(a)(1) of this Act, or defined in subpart I of part C of title VII of the Public Health Service Act may, with respect to a consolidation loan made under section 428C of this Act (and section 439(o) of this Act as in effect prior to the enactment of section 428C) and loans guaranteed under subpart I of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—A lender offering a combined payment plan shall comply with all provisions of section 428C applicable to loans consolidated or to be consolidated and shall comply with all provisions of subpart I of part C of title VII of the Public Health Service Act applicable to loans under that subpart which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 428C(b)(1)(A) if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

(c) LENDER ELIGIBILITY.—Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

(d) BORROWER SELECTION OF COMPETING OFFERS.—In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

(e) EFFECT OF PLAN.—Upon selection of a lender to administer the combined payment plan, the lender may reissue any Health Education Assistance Loan selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 733(e)(3) of the Public Health Service Act) at the time the request for a combined payment plan is made.

(f) NOTES AND INSURANCE CERTIFICATES.—(1) Each loan reissued under subsection (e) shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under subpart I of part C of title VII of the Public Health Service Act (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 728(a) of the Public Health Service Act. Notwithstanding the provisions of section 729(a) of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under subpart I of part C of title VII of the Public Health Service Act, the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act, and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

(g) TERMINATION OF BORROWER ELIGIBILITY.—The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

(h) FEES AND PREMIUMS.—No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

(i) COMMENCEMENT OF REPAYMENT.—Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e).

(20 U.S.C. 1092a) Enacted October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1484; amended June 3, 1987, P.L. 100–50, sec. 15(12), 101 Stat. 357; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 485B.[1] NATIONAL STUDENT LOAN DATA SYSTEM.

(a) DEVELOPMENT OF THE SYSTEM.—The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B and loans made under parts D and E, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan. The information in the data system shall include (but is not limited to)—

(1) the amount and type of each such loan made;

(2) the names and social security numbers of the borrowers;

(3) the guaranty agency responsible for the guarantee of the loan;

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[1] Section 204 of Public Law 101–610 (104 Stat. 3172) amended section 485B(a) of the Higher Education Act of 1965. These amendments could not be carried out.

(4) the institution of higher education or organization responsible for loans made under parts D and E;

(5) the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

(6) the total amount of loans made to any borrower and the remaining balance of the loans;

(7) the lender, holder, and servicer of such loans;

(8) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan;

(9) information regarding any deferments or forbearance granted on such loans; and

(10) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

(b) ADDITIONAL INFORMATION.—For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B. Such data shall include—

(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

(3) information concerning other student financial assistance received by the borrower; and

(4) information concerning Federal costs associated with the student loan program under part B of this title, including the costs of interest subsidies, special allowance payments, and other subsidies.

(c) VERIFICATION.—The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B, D, or E.

(d) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the appropriate committees of the Congress, in each fiscal year, a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.

(e) STANDARDIZATION OF DATA REPORTING.—

(1) IN GENERAL.—The Secretary shall by regulation prescribe standards and procedures (including relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this title in uniform formats in order to permit the direct comparison of data

submitted by individual lenders, servicers or guaranty agencies.

(2) Activities.—For the purpose of establishing standards under this section, the Secretary shall—

(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this title.

(f) Common Identifiers.—The Secretary shall, not later than July 1, 1993—

(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this title; and

(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

(g) Integration of Databases.—The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this title.

(20 U.S.C. 1092b) Reenacted December 19, 1989, P.L. 101-239, sec. 2008, 103 Stat. 2121-2122; amended July 23, 1992, P.L. 102-325, sec. 487, 106 Stat. 623; amended December 20, 1993, P.L. 103-208, sec. 2(h)(38)-(41), (m), 107 Stat. 2478, 2486.

SEC. 485C. SIMPLIFICATION OF THE LENDING PROCESS FOR BORROWERS.

(a) All Like Loans Treated as One.—To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans.

(b) One Lender, One Guaranty Agency.—To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.

(20 U.S.C. 1092c) Enacted July 23, 1992, P.L. 102-325, sec. 488, 106 Stat. 624.

SEC. 486. TRAINING IN FINANCIAL AID SERVICES.

(a) Program Authority.—The Secretary is authorized to provide grants to appropriate nonprofit private organizations or combinations of such organizations to provide training for student financial aid administrators and TRIO personnel, at all levels of experience, who provide or are involved in student financial aid services.

(b) USE OF FUNDS.—Financial assistance under this section may be used for—

(1) the operation of short-term training institutes and special training programs for student financial aid administrators or TRIO personnel designed to—

(A) improve the professional management skills of participants in such institutes and programs;

(B) improve the delivery of student services;

(C) improve students' or prospective students' information on the availability and operation of student financial assistance programs; and

(D) improve the understanding and knowledge of the participants concerning the legislative and regulatory requirements of the student financial assistance programs and changes in such requirements; and

(2) the development of appropriate training materials.

(c) LIMITATIONS.—Grants authorized under this section—

(1) shall be limited to not less than $1,000,000 in the case of single-year grants;

(2) shall be limited to not less than $1,000,000 per year in the case of multiple-year grants;

(3) shall be limited to a maximum of 3 years in the case of multiple-year grants; and

(4) may be renewed at the discretion of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS AND USE OF FUNDS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

(20 U.S.C. 1093) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1450; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1487; amended July 23, 1992, P.L. 102–325, sec. 489, 106 Stat. 624.

SEC. 487. PROGRAM PARTICIPATION AGREEMENTS.

(a) REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this title or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

(A) the Secretary;

(B) the appropriate State review entity designated under subpart 1 of part H,

(C) the appropriate guaranty agency; and

(D) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this title.

(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and 428(b)(1) (A) and (B).

(7) The institution will comply with the requirements of section 485.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution whose students receive financial assistance pursuant to section 484(d), the institution will make available to such students a program proven suc-

cessful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 485(f).

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this title on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and State review entities under subpart 1 of part H to share with each other any information pertaining to the institution's eligibility to participate in programs under this title or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this title, or the receipt of program funds under this title, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title or contract with an institution or third party servicer that has been terminated under section 432 involving the acquisition, use, or expenditure of funds under this title, or who has been judicially determined to have committed fraud involving funds under this title.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title; or

(ii) judicially determined to have committed fraud involving funds under this title.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data

collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18)(A) With respect to any institution that offers athletically related student aid, the institution will—

(i) cause an annual compilation, independently audited not less often than every 3 years, to be prepared within 6 months after the end of its fiscal year, of—

(I) the total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, derived by the institution from its intercollegiate athletics activities;

(II) the total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, made by the institution for its intercollegiate athletics activities; and

(III) the total revenues and operating expenses of the institution; and

(ii) make the reports on such compilations and, where allowable by State law, the audits, available for inspection by the Secretary and the public.

(B) For the purpose of subparagraph (A)—

(i) revenues from intercollegiate athletics activities allocable to a sport shall include without limitation gate receipts, broadcast revenues, appearance guarantees and options, concessions and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only; and

(ii) expenses for intercollegiate athletics activities allocable to a sport shall include without limitation grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this title due to compliance with the provisions of this title, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part H of this title.

(22) The institution will comply with the refund policy established pursuant to section 484B.

(b) HEARINGS.—(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clause (ii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the State review entities referred to in subpart 1 of part H; or

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this title, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this title, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(F) the limitation, suspension, or termination of the participation in any program under this title of an eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this title, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution to administer any aspect of an institution's student assistance program under this title, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this title, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this title, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this title, any regulation prescribed under this title, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination, except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part H, over one or more institutions participating in any program under this title, or, for purposes of paragraphs (1) (H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this title, is determined to have committed one or more violations of the requirements of any program under this title, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish, after consultation with each State review entity designated under subpart 1 of part H, a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational edu-

cation in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State review entities designated under subpart 1 of part H, and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this title for which the institution has not received funds appropriated under this title (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) DEFINITION OF ELIGIBLE INSTITUTION.—For the purpose of this section, the term "eligible institution" means any such institution described in section 481 of this Act.

(e) CONSTRUCTION.—Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

(20 U.S.C. 1094) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1451; amended April 7, 1986, P.L. 99–272, sec. 16034, 100 Stat 356; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1486; amended December 19, 1989, P.L. 101–239, secs. 2003(c)(2) and 2006(c), 103 Stat. 2114, 2118–2120; amended November 8, 1990, P.L. 101–542, sec. 205, 104 Stat. 2387; amended April 9, 1991, P.L. 102–26, sec. 2(c)(3), 105 Stat. 124; amended July 23, 1992, P.L. 102–325, sec. 490, 106 Stat. 625; amended December 20, 1993, P.L. 103–208, sec. 2(h)(42) and (43), (m), 107 Stat. 2478, 2486.

SEC. 487A. QUALITY ASSURANCE PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems to verify student financial aid application data, thereby enhancing program integrity within the student aid delivery system. The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary.

(b) Exemption From Requirements.—The Secretary is authorized to exempt any institution participating in the Quality Assurance Program from any reporting or verification requirements in this title, and may substitute such quality assurance reporting as the Secretary deems necessary to ensure accountability and compliance with the purposes of the programs under this title.

(c) Removal From the Program.—The Secretary is authorized to determine—

(1) when an institution that is unable to administer the Quality Assurance Program must be removed from such program, and

(2) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

(d) Experimental Sites.—(1) The Secretary is authorized to select institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

(2) The Secretary is authorized to exempt any institution participating as an experimental site from any requirements in this title, or in regulations prescribed under this title, that would bias experimental results.

(e) Definitions.—For purposes of this section, "current award year" is defined as the award year during which the participating institution indicates its intention to cease participation.

(20 U.S.C. 1094a) Enacted July 23, 1992, P.L. 102–325, sec. 491, 106 Stat. 629

SEC. 487B. ASSIGNMENT OF IDENTIFICATION NUMBERS.

The Secretary shall assign to each participant in title IV programs, including institutions, lenders, and guaranty agencies, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.

(20 U.S.C. 1094b) Enacted July 23, 1992, P.L. 102–325, sec. 491, 106 Stat. 629

SEC. 488. TRANSFER OF ALLOTMENTS.

In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 462 to the institution's allotment under section 413D or 442 (or both); and (2) transfer 25 percent of the institution's allotment under section 442 to the institution's allotment under section 413D. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(20 U.S.C. 1095) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1452; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1490; amended June 3, 1987, P.L. 100–50, sec. 15(14), 101 Stat. 357; amended July 23, 1992, P.L. 102–325, sec. 492, 106 Stat. 630; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 488A. WAGE GARNISHMENT REQUIREMENT.

(a) GARNISHMENT REQUIREMENTS.—Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this title that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B on which the guaranty agency received reimbursement from the Secretary under section 428(c), with the guaranty agency holding the loan, as appropriate, provided that—

(1) the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(b) HEARING REQUIREMENTS.—A hearing described in subsection (a)(5) shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2), and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) NOTICE REQUIREMENTS.—The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) DEFINITION.—For the purpose of this section, the term "disposable pay" means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.

(20 U.S.C. 1095a) Enacted November 15, 1991, P.L. 102–164, sec. 605(a), 105 Stat. 1066–1068; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 489. ADMINISTRATIVE EXPENSES.

(a) AMOUNT OF PAYMENTS.—From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 3 of part A or part C, of this title or under part E of this title shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 3 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(h).

(b) Purpose of Payments.—(1) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, or (B) independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.

(20 U.S.C. 1096) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1453; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1491; amended Nov. 6, 1986, P.L. 99–603, sec. 121(b)(7), 100 Stat. 3391; amended June 3, 1987, P.L. 100–50, sec. 15(15), 101 Stat. 357; amended July 23, 1992, P.L. 102–325, sec. 446(c), and 493, 106 Stat. 567, and 630; amended December 20, 1993, P.L. 103–208, sec. 2(h)(44), (k)(6), (m), 107 Stat. 2478, 2486.

[Section 489A is repealed by section 494 of Public Law 102–325, 106 Stat. 631.]

SEC. 490. CRIMINAL PENALTIES.

(a) In General.—Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this title or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

(b) Assignment of Loans.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Inducements To Lend or Assign.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.

(20 U.S.C. 1097) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1453; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1491; amended July 23, 1992, P.L. 102–325, sec. 495, 106 Stat. 631; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 491. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

(a) ESTABLISHMENT AND PURPOSE.—(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the "Advisory Committee") which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

(b) INDEPENDENCE OF ADVISORY COMMITTEE.—In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the Congress in accordance with subsection (f). The Secretary's authority to terminate advisory committees of the Department pursuant to section 448(b) of the General Education Provisions Act ceased to be effective on June 23, 1983.

(c) MEMBERSHIP.—(1) The Advisory Committee shall have 11 members of which—

(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

(d) FUNCTIONS OF THE COMMITTEE.—The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part F of this title;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

(6) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs; and

(9) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) OPERATIONS OF THE COMMITTEE.—(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years,
as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(4) Six members of the Advisory Committee shall constitute a quorum.

(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) SUBMISSION TO DEPARTMENT FOR COMMENT.—The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) COMPENSATION AND EXPENSES.—(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule.

(2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5, United States Code and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) Availability of Funds.—In each fiscal year not less than $750,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) Special Analyses and Activities.—The committee shall—

(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the need analysis;

(2) monitor and evaluate the implementation, pursuant to section 483, of a Free Application for Federal Student Aid and the process for determining eligibility and awards for programs under this title, including a simplified reapplication process;

(3) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

(4) assess the adequacy of methods of monitoring student debt burden.

(k) Term of the Committee.—Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 1998.

(l) Student Loan Program Simplification Study.—(1) The Advisory Committee shall conduct a thorough study of means of simplifying all aspects of the loan programs under part B of this title. In carrying out the study, the Advisory Committee shall examine, at a minimum—

(A) reduction of paperwork burdens experienced by financial aid administrators resulting from the current structure of such loan programs;

(B) promotion of simplification and standardization of forms, procedures, and all other aspects of guaranty agency operations for the purpose of facilitating data exchanges with such agencies (including the National Student Loan Database) and facilitating Department of Education oversight;

(C) simplification of the repayment process to minimize borrower confusion, including encouragement of single holder ownership of all of an individual's loans;

(D) encouragement of efficient utilization of loan programs to minimize multiple program borrowing in postsecondary education; and

(E) other proposals which are designed to reduce the administrative burdens on, and paperwork required of, students, educational institutions, guaranty agencies, lenders, secondary markets, and the Secretary submitted in response to a general solicitation by the Advisory Committee.

(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

(3) The Advisory Committee shall, not later than 1 year after the date of enactment of this Act, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the study required by this subsection.

(20 U.S.C. 1098) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1454; amended August 15, 1983, P.L. 98–79, sec. 11, 97 Stat. 484; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1492; amended June 3, 1987, P.L. 100–50, sec. 15(16)–(18), 101 Stat. 357; amended July 23, 1992, P.L. 102–325, sec. 496, 106 Stat. 631; amended December 20, 1993, P.L. 103–208, sec. 2(h)(45) and (46), (m), 107 Stat. 2478, 2486.

SEC. 492. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

(a) MEETINGS.—

(1) IN GENERAL.—The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations for parts B, G, and H of this title. Such meetings shall include individuals and representatives of the groups involved in student financial assistance programs under this title, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

(2) ISSUES.—During such meetings, the Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of parts B, G, and H, as amended by the Higher Education Amendments of 1992. The Secretary shall take into account the information received at such meetings in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) DRAFT REGULATIONS.—After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing parts B, G, and H of this title as amended by the Higher Education Amendments of 1992 and shall submit such regulations to a negotiated rulemaking process. The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups participating in the regional meetings described in subsection (a)(1), and shall include both representatives of such groups from Washington, D.C., and industry participants. To the extent possible, the Secretary shall select individuals reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 240-day period described in section 431(g) of the General Education Provisions Act.

(c) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to activities carried out under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

(20 U.S.C. 1098a) Enacted July 23, 1992, P.L. 102–325, sec. 497, 106 Stat. 633.

SEC. 493. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES.

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this title, including expenses for staff personnel, program reviews, and compliance activities.

(20 U.S.C. 1098b) Enacted July 23, 1992, P.L. 102–325, sec. 497, 106 Stat. 634.

PART H—PROGRAM INTEGRITY TRIAD

Subpart 1—State Postsecondary Review Program

SEC. 494. STATE POSTSECONDARY REVIEW PROGRAM.

(a) PURPOSE.—It is the purpose of this section to authorize the Secretary to enter into agreements that—

(1) designate one State postsecondary review entity in each State to be responsible for the conduct or coordination of the review under section 494C(d) of institutions of higher education, reported to the State by the Secretary pursuant to section 494C(a), for the purposes of determining eligibility under this title; and

(2) provide Federal funds to each State postsecondary review entity for performing the functions required by such agreements with the Secretary.

(b) PROGRAM AUTHORITY.—The Secretary shall, in accordance with the provisions of this subpart, enter into agreements with each of the States to carry out the purposes of this subpart. If any State declines to enter into an agreement with the Secretary for the purposes of this subpart, the provisions of this subpart which refer to the State, with respect to such State, shall refer to the Secretary, who may make appropriate arrangements with agencies or organizations of demonstrated competence in reviewing institutions of higher education.

(c) FAILURE TO COMPLY WITH AGREEMENT.—If a State fails to enter into an agreement under this section or fails to meet the requirements of its agreement with the Secretary under this subpart—

(1) the Secretary—

(A) may not designate as eligible for participation in any program under this title any new institution (including new branch campuses) or any institution that has changed ownership, pursuant to section 481 and subpart 3 of this part; and

(B) may grant only provisional certification for all institutions in the State pursuant to subpart 3 of this part; and

(2) the State shall be ineligible to receive funds under section 494B of this subpart, subpart 4 of part A of this title, and chapter 2 of subpart 2 of part A of this title

(20 U.S.C. 1099a) Enacted July 23, 1992, P.L. 102–325, sec. 499, 106 Stat. 634.

SEC. 494A. STATE POSTSECONDARY REVIEW ENTITY AGREEMENTS.

(a) STATE ORGANIZATION STRUCTURES.—(1) Each agreement under this subpart shall describe a State organizational structure responsible for carrying out the review under section 494C(d) of institutions reported to the State by the Secretary pursuant to section 494C(a). Each such entity's action in reviewing such institutions shall, for purposes of this subpart, be considered to be the action of the State.

(2) For the purposes of this subpart, the designation of a State postsecondary review entity for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

(3) Except as provided in paragraph (6), nothing in this subpart shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, a specific State organizational structure.

(4) Except as provided in paragraph (6), nothing in this subpart shall be construed—

(A) as a limitation on the authority of any State to adopt a State organization structure for postsecondary education agencies, or programs, or institutions of higher education as appropriate to the needs, traditions, and circumstances of that State;

(B) as a limitation on the authority of a State entering into an agreement pursuant to this subpart to modify the State organizational structure at any time subsequent to entering into such agreement;

(C) as a limitation on the authority of any State to enter into an agreement for purposes of this subpart as a member of a consortium of States;

(D) as an authorization for the Secretary to withhold funds from any State or postsecondary institution on the basis of compliance with a State's constitution or laws;

(E) as an authorization for any State postsecondary review entity to exercise planning, policy, coordinating, supervisory, budgeting, or administrative powers over any postsecondary institution; or

(F) as a limitation on the use of State audits for the purpose of compliance with applicable standards under section 494C(d).

(5) Nothing in this subpart shall be construed to limit the authority or activities of any State loan insurance program established under section 428(b) of this title or of any relevant State licensing authority which grants approval for institutions of higher education to operate within a State or their authority to contact the Secretary directly.

(6) Notwithstanding the provisions of paragraphs (2), (3), and (4) of this subsection, the Secretary may require each State to designate an entity responsible for the conduct or coordination of the review of institutions under this title.

(b) CONTENTS OF AGREEMENTS.—Agreements between each State and the Secretary shall contain the following elements:

(1) A designation of a single State postsecondary review entity, which represents all entities of that State which are responsible for—

(A) granting State authorization to each institution of higher education in that State for the purposes of this title, and

(B) ensuring that each institution of higher education in that State remains in compliance with the standards developed pursuant to section 494C.

(2) Assurances that the State will review institutions of higher education for the purpose of determining eligibility under this title on a schedule to coincide with the dates set by the Secretary to certify or recertify such institutions of higher education as provided in section 481 and subpart 3 of this part.

(3) Assurances that the appropriate State postsecondary review entity will perform the functions authorized by this subpart and will keep such records and provide such information to the Secretary as may be requested for financial and compliance audits and program evaluation, consistent with the responsibilities of the Secretary.

(4) A description of the relationship between the State postsecondary review entity designated for the purposes of this subpart and (A) the agency or agencies designated for the purposes of chapter 36 of title 38 of the United States Code, (B) the loan insurance program established under section 428(b) of this title for that State, and (C) the grant agency established under section 415C of this title.

(5) A plan for performing the functions described in section 494C of this subpart.

(c) FEDERAL RESPONSIBILITY.—Notwithstanding any other provision of law, no State shall be required to enter into an agreement with the Secretary under this subpart for performing the review functions required by such agreement unless the Congress appropriates funds for this subpart

(20 U.S.C. 1099a–1) Enacted July 23, 1992, P.L. 102–325, sec. 499, 106 Stat. 635.

SEC. 494B. FEDERAL REIMBURSEMENT OF STATE POSTSECONDARY REVIEW COSTS.

(a) PAYMENTS.—Subject to subsection (b), the Secretary shall reimburse the States for the costs of performing the functions required by agreements with the Secretary authorized under this subpart. Such costs shall include expenses for providing initial and continuing training to State personnel and other personnel in the State, including personnel at institutions of higher education subject to review, to serve the purposes of this subpart. Reimbursement shall be provided for necessary activities which supplement, but do not supplant, existing licensing or review functions conducted by the State. The Secretary shall also reimburse such entities for work performed by their subcontractors and consultants where such work has a direct relationship to the requirements of agreements with the Secretary under this subpart.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of enabling the Secretary to make payments to States which have made agreements with the Secretary under this subpart, there is authorized to be appropriated $75,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1099a–2) Enacted July 23, 1992, P.L. 102–325, sec. 499, 106 Stat. 637.

SEC. 494C. FUNCTIONS OF STATE REVIEW ENTITIES.

(a) INITIAL REVIEW.—The Secretary shall review all eligible institutions of higher education in a State to determine if any such institution meets any of the criteria in subsection (b). If any such institution meets one or more of such criteria, the Secretary shall inform the State in which such institution is located that the institution has met such criteria, and the State shall review the institution pursuant to the standards in subsection (d). The Secretary may determine that a State need not review an institution if such institution meets the criterion in subsection (b)(10) only, such institution was previously reviewed by the State under subsection (d), and the State determined in such previous review that the institution did not violate any of the standards in subsection (d). The Secretary shall supply the State with a copy of the institutional audits, required pursuant to section 487(c), for the institutions which shall be reviewed by the State. In addition to those institutions identified by the Secretary, the State may, subject to approval by the Secretary, review additional institutions which meet one or more of the criteria provided in subsection (b), based on more recent data available to the State, or which the State has reason to believe are engaged in fraudulent practices. If the Secretary fails to approve or disapprove a State request to review additional institutions within 21 days, the State may proceed to review such additional institutions as if approved by the Secretary.

(b) REVIEW CRITERIA.—The criteria for the initial review of institutions of higher education are as follows:

(1) A cohort default rate (as defined in section 435(m)) equal to or greater than 25 percent.

(2) A cohort default rate (as defined in such section) equal to or greater than 20 percent and either—

(A) more than two-thirds of the institution's total undergraduates who are enrolled on at least a half-time basis receive assistance under this title (except subparts 4 and 6 of part A); or

(B) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution from the programs established under this title (except subparts 4 and 6 of part A and section 428B).

(3) Two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution pursuant to subpart 1 of part A of this title.

(4) A limitation, suspension, or termination action by the Secretary against the institution pursuant to section 487 during the preceding 5 years.

(5) An audit finding during the 2 most recent audits of an institution of higher education's conduct of the programs established by this title that resulted in the repayment by the institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any one year.

(6) A citation of an institution by the Secretary for failure to submit audits required by this title in a timely fashion.

(7) A year-to-year fluctuation of more than 25 percent in the amounts received by students enrolled at the institution from either Federal Pell Grant, Federal Stafford Loan, or Federal Supplemental Loans to Students programs, which are not accounted for by changes in these programs.

(8) Failure to meet financial responsibility standards pursuant to subpart 3 of this part.

(9) A change of ownership of the institution that results in a change of control which includes (but is not limited to)—

(A) the sale of the institution or the majority of its assets;

(B) the division of 1 or more institutions into 2 or more institutions;

(C) the transfer of the controlling interest in stock of the institution or its parent corporation;

(D) the transfer of the controlling interest of stock of the institution to its parent corporation; or

(E) the transfer of the liabilities of the institution to its parent corporation.

(10) Except with regard to any public institution that is affiliated with a State system of higher education, participation in any of the programs established pursuant to subparts 1 and 3 of part A, part B, part C, and part E of this title for less than 5 years.

(11) A pattern of student complaints pursuant to subsection (j) related to the management or conduct of the programs established by this title or relating to misleading or inappropriate advertising and promotion of the institution's program, which in the judgment of the Secretary are sufficient to justify review of the institution.

(c) Use of Recent Data.—The criteria provided for in subsection (b) shall be measured on the basis of the most recent data available to the Secretary. Institutions may request verification of the data used by the Secretary.

(d) Review Standards.—Institutions which meet 1 or more of the criteria in subsection (b) shall be reviewed by the appropriate State entity in accordance with published State standards that are consistent with the constitution and laws of the State, developed in consultation with the institutions in the State, and subject to disapproval by the Secretary. Such review shall determine the following:

(1) The availability to students and prospective students of catalogs, admissions requirements, course outlines, schedules of tuition and fees, policies regarding course cancellations, and the rules and regulations of the institution relating to students and the accuracy of such catalogs and course outlines in reflecting the courses and programs offered by the institution.

(2) Assurance that the institution has a method to assess a student's ability to successfully complete the course of study for which he or she has applied.

(3) Assurance that the institution maintains and enforces standards relating to academic progress and maintains adequate student and other records.

(4) Compliance by the institution with relevant safety and health standards, such as fire, building, and sanitation codes.

(5) The financial and administrative capacity of the institution as appropriate to a specified scale of operations and the maintenance of adequate financial and other information necessary to determine the financial and administrative capacity of the institution.

(6) For institutions financially at risk, the adequacy of provisions to provide for the instruction of students and to provide for the retention and accessibility of academic and financial aid records of students in the event the institution closes.

(7) If the stated objectives of the courses or programs of the institution are to prepare students for employment, the relationship of the tuition and fees to the remuneration that can be reasonably expected by students who complete the course or program and the relationship of the courses or programs (including the appropriateness of the length of such courses) to providing the student with quality training and useful employment in recognized occupations in the State.

(8) Availability to students of relevant information by institutions of higher education, including—

(A) information relating to market and job availability for students in occupational, professional, and vocational programs; and

(B) information regarding the relationship of courses to specific standards necessary for State licensure in specific occupations.

(9) The appropriateness of the number of credit or clock hours required for the completion of programs or of the length of 600-hour courses.

(10) Assessing the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this title.

(11) The adequacy of procedures for investigation and resolution of student complaints.

(12) The appropriateness of advertising and promotion and student recruitment practices.

(13) That the institution has a fair and equitable refund policy to protect students.

(14) The success of the program at the institution, including—

(A) the rates of the institution's students' program completion and graduation, taking into account the length of the program at the institution and the selectivity of the institution's admissions policies;

(B) the withdrawal rates of the institution's students;

(C) with respect to vocational and professional programs, the rates of placement of the institution's graduates in occupations related to their course of study;

(D) where appropriate, the rate at which the institution's graduates pass licensure examinations; and

(E) the variety of student completion goals, including transfer to another institution of higher education, full-time employment in the field of study, and military service.

(15) With respect to an institution which meets 1 or more of the criteria in subsection (b), the State shall contract with the appropriate approved accrediting agency or association (described in subpart 2 of this part) or another peer review system with demonstrated competence in assessing programs (pursuant to the authority contained in subsection (f)) to carry out a review or provide information regarding such agency's or association's assessment of the following: The quality and content of the institution's courses or programs of instruction, training, or study in relation to achieving the stated objectives for which the courses or programs are offered, including the adequacy of the space, equipment, instructional materials, staff, and student support services (including student orientation, counseling, and advisement) for providing education and training that meets such stated objectives.

(e) SUBSTITUTIONS PROHIBITED.—The appropriate State postsecondary review entity may not substitute either (1) accreditation by a private accrediting agency or body, or (2) compliance audits performed by a State guaranty agency established under section 428(b) of this title, for State review of compliance with the standards in subsection (d).

(f) STATE CONTRACTS.—If the appropriate State postsecondary review entity contracts with a private agency or body or an accreditation body or peer review system for assistance in performing State postsecondary review entity functions, such contract shall be provided for in the agreement with the Secretary required by section 494A.

(g) PROHIBITION ON UNRELATED REQUIREMENTS.—Notwithstanding any of the provisions of this subpart, the Secretary shall not require a State to establish standards that are unrelated to ensuring institutional or program integrity or that violate the provisions of a State's constitution or laws.

(h) Institutional Eligibility.—A State postsecondary review entity may determine that an institution of higher education shall not be eligible to participate in programs under this title based on its own findings or the findings of a Federal entity in accordance with the following procedures:

(1) State findings.—If the appropriate State postsecondary review entity finds that an institution of higher education does not meet one or more of the standards in subsection (d) of this section, such State postsecondary review entity shall notify the Secretary of its findings and the actions that such entity is taking, or has taken, in response to such findings within a time period prescribed by the Secretary by regulation. If a State postsecondary review entity determines an institution of higher education shall not be eligible for participation in programs under this title, such State postsecondary review entity shall so notify the Secretary. Upon receipt of such notification of ineligibility, the Secretary shall immediately terminate the participation of such institutions in the programs authorized by this title.

(2) Secretary's findings.—If the Secretary or any other Federal entity takes, or plans to take, any action against any institution of higher education (including any actions taken under section 487), the Secretary shall notify the appropriate State postsecondary review entity (or entities, in the case of multi-State institutions) of such action within a time period prescribed in the Secretary's regulations.

(3) Procedural protections for disapproval.—The Secretary shall, by regulation, prescribe minimum procedural standards for the disapproval of institutions of higher education by the appropriate State postsecondary review entity or entities for purposes of this title.

(i) Limit on State Postsecondary Review Agency Functions.—The functions of State postsecondary review entity shall not include performing financial and compliance audits as may be required under section 428 or 487 of this Act.

(j) Consumer Complaints.—A State, in consultation with the institutions of higher education in the State, shall establish and publicize the availability of procedures for receiving and responding to complaints from students, faculty, and others about institutions of higher education and shall keep records of such complaints in order to determine their frequency and nature for specific institutions of higher education.

(k) Enforcement Mechanisms.—Nothing in this subpart shall restrict the authority of the States to establish mechanisms to enforce the standards established under subsection (d) or require the States to establish specific mechanisms recommended by the Secretary.

(20 U.S.C. 1099a–3) Enacted July 23, 1992, P.L. 102–325, sec. 499, 106 Stat. 637; amended December 20, 1993, P.L. 103–208, sec. 2(i)(1) and (2), 107 Stat. 2478.

Subpart 2—Accrediting Agency Approval

SEC. 496. APPROVAL OF ACCREDITING AGENCY OR ASSOCIATION.

(a) STANDARDS REQUIRED.—No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this Act or for other Federal purposes, unless the agency or association meets standards established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish standards for such determinations. Such standards shall include an appropriate measure or measures of student achievement. Such standards shall require that—

(1) the accrediting agency or association shall be a State, regional, or national agency or association and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate;

(2) such agency or association—

(A)(i) for the purpose of participation in programs under this Act, has a voluntary membership of institutions of higher education and has as a principal purpose the accrediting of institutions of higher education; or

(ii) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, has a voluntary membership and has as its principal purpose the accrediting of institutions of higher education or programs;

(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this title, conducts accreditation through (i) a voluntary membership organization of individuals participating in a profession, or (ii) an agency or association which has as its principal purpose the accreditation of programs within institutions, which institutions are accredited by another agency or association recognized by the Secretary;

(3) if such agency or association is an agency or association described in—

(A) subparagraph (A)(i) of paragraph (2), then such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization;

(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirement that such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization upon a demonstration that the existing relationship has not served to compromise the independence of its accreditation process;

(4) such agency or association consistently applies and enforces standards that ensure that the courses or programs of instruction, training, or study at the institution of higher education are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered;

(5) the standards of accreditation of the agency or association assess the institution's—

(A) curricula;

(B) faculty;

(C) facilities, equipment, and supplies;

(D) fiscal and administrative capacity as appropriate to the specified scale of operations;

(E) student support services;

(F) recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising;

(G) program length and tuition and fees in relation to the subject matters taught and the objectives of the degrees or credentials offered;

(H) measures of program length in clock hours or credit hours;

(I) success with respect to student achievement in relation to its mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates;

(J) default rates in the student loan programs under title IV of this Act, based on the most recent data provided by the Secretary;

(K) record of student complaints received by, or available to, the agency or association; and

(L) compliance with its program responsibilities under title IV of this Act, including any results of financial or compliance audits, program reviews, and such other information as the Secretary may provide to the agency or association;

except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;

(6) such agency or association shall apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process, including—

(A) adequate specification of requirements and deficiencies at the institution of higher education or program being examined;

(B) notice of an opportunity for a hearing by any such institution;

(C) the right to appeal any adverse action against any such institution; and

(D) the right to representation by counsel for any such institution;

(7) such agency or association shall notify the Secretary and the appropriate State postsecondary review entity within 30 days of the accreditation of an institution or any final denial, withdrawal, suspension, or termination of accreditation or placement on probation of an institution, together with any other adverse action taken with respect to an institution; and

(8) such agency or association shall make available to the public, upon request, and to the Secretary, and the State postsecondary review entity of the State in which the institution of higher education is located a summary of any review resulting in a final accrediting decision involving denial, termination, or suspension of accreditation, together with the comments of the affected institution.

(b) SEPARATE AND INDEPENDENT DEFINED.—For the purpose of subsection (a)(3), the term "separate and independent" means that—

(1) the members of the postsecondary education governing body of the accrediting agency or association are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

(2) among the membership of the board of the accrediting agency or association there shall be one public member (who is not a member of any related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflicts of interest;

(3) dues to the accrediting agency or association are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

(c) OPERATING PROCEDURES REQUIRED.—No accrediting agency or association may be approved by the Secretary as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this title, unless the agency or association—

(1) performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (at least one of which inspections at each institution that provides vocational education and training shall be unannounced), with particular focus on educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities;

(2) requires that any institution of higher education subject to its jurisdiction which plans to establish a branch campus submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

(3) agrees to conduct, as soon as practicable, but within a period of not more than 6 months of the establishment of a new branch campus or a change of ownership of an institution

of higher education, an on-site visit of that branch campus or of the institution after a change of ownership;

(4) requires that teach-out agreements among institutions are subject to approval by the accrediting agency or association consistent with standards promulgated by such agency or association;

(5) maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures, and the accreditation status of each institution subject to its jurisdiction; and

(6) discloses publicly whenever an institution of higher education subject to its jurisdiction is being considered for accreditation or reaccreditation.

(d) LENGTH OF APPROVAL.—No accrediting agency or association may be approved by the Secretary for the purpose of this Act for a period of more than 5 years.

(e) INITIAL ARBITRATION RULE.—The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

(f) JURISDICTION.—Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association approved by the Secretary for the purpose of this title and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court.

(g) LIMITATION ON SCOPE OF STANDARDS.—Nothing in this Act shall be construed to permit the Secretary to establish standards for accrediting agencies or associations that are not required by this section. Nothing in this Act shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section.

(h) CHANGE OF ACCREDITING AGENCY.—The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

(i) DUAL ACCREDITATION RULE.—The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determining the institution's eligibility for programs under this Act.

(j) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an institution of higher education under section 481 and subpart 3 of this part or participate in any of the other programs authorized by this Act if such institution—

(1) is not currently accredited by any agency or association recognized by the Secretary;

(2) has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or

(3) has withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months, unless such order has been rescinded by the same accrediting agency.

(k) RELIGIOUS INSTITUTION RULE.—Notwithstanding subsection (j), the Secretary shall allow an institution that has had its accreditation withdrawn, revoked, or otherwise terminated, or has voluntarily withdrawn from an accreditation agency, to remain certified as an institution of higher education under section 481 and subpart 3 of this part for a period sufficient to allow such institution to obtain alternative accreditation, if the Secretary determines that the reason for the withdrawal, revocation, or termination—

(1) is related to the religious mission or affiliation of the institution; and

(2) is not related to the accreditation standards provided for in this section.

(l) LIMITATION, SUSPENSION OR TERMINATION OF APPROVAL.—(1) The Secretary shall limit, suspend, or terminate the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has failed to apply effectively the standards or operate according to the procedures provided in this section.

(2) The Secretary may determine that an accrediting agency or association has failed to apply effectively the standards provided in this section if an institution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such suspension, revocation, termination, or threatened loss have not been completed.

(m) LIMITATION ON THE SECRETARY'S AUTHORITY.—The Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this Act or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

(n) INDEPENDENT EVALUATION.—(1) The Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the standards established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Such evaluation shall include—

(A) the solicitation of third-party information concerning the performance of the accrediting agency or association; and

(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.

(2) The Secretary shall place a priority for review of accrediting agencies or associations on those agencies or associations that accredit institutions of higher education that participate most extensively in the programs authorized by this title and on those agencies or associations which have been the subject of the most complaints or legal actions.

(3) The Secretary shall consider all available relevant information concerning the compliance of the accrediting agency or association with the standards provided for in this section, including any complaints or legal actions against such agency or association. In cases where deficiencies in the performance of an accreditation agency or association with respect to the requirements of this section are noted, the Secretary shall take these deficiencies into account in the approval process. The Secretary shall not, under any circumstances, base decisions on the approval or disapproval of accreditation agencies or associations on standards other than those contained in this section.

(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the approval process, and, upon disapproval of any accreditation agency or association, shall make publicly available the reason for such disapproval, including reference to the specific standards under this section which have not been fulfilled.

(o) REGULATIONS.—The Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions.

(20 U.S.C. 1099b) Enacted July 23, 1992, P.L. 102–325, sec. 499, 106 Stat. 641; amended December 20, 1993, P.L. 103–208, sec. 2(i)(3)–(8), 107 Stat. 2478–79.

Subpart 3—Eligibility and Certification Procedures

SEC. 498. ELIGIBILITY AND CERTIFICATION PROCEDURES.

(a) GENERAL REQUIREMENT.—For purposes of qualifying institutions of higher education for participation in programs under this title, the Secretary shall determine the legal authority to operate within a State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education in accordance with the requirements of this section.

(b) SINGLE APPLICATION FORM.—The Secretary shall prepare and prescribe a single application form which—

(1) requires sufficient information and documentation to determine that the requirements of eligibility, accreditation, and capability of the institution of higher education are met;

(2) requires a specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;

(3) requires a description of third party servicers of an institution of higher education, together with a copy of any contract with the institution of higher education and a financial aid service provider or loan servicer; and

(4) requires such other information as the Secretary determines will ensure compliance with the requirements of this title with respect to eligibility, accreditation, administrative capability and financial responsibility.

(c) FINANCIAL RESPONSIBILITY STANDARDS.—(1) The Secretary shall determine whether an institution has the financial responsibility required by this title on the basis of whether the institution is able—

(A) to provide the services described in its official publications and statements;

(B) to provide the administrative resources necessary to comply with the requirements of this title; and

(C) to meet all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

(2) Notwithstanding paragraph (1), if an institution fails to meet criteria prescribed by the Secretary with respect to operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits then the institution shall provide the Secretary with satisfactory evidence of its financial responsibility in accordance with paragraph (3). Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.

(3) The Secretary shall determine an institution to be financially responsible, notwithstanding the institution's failure to meet the criteria under paragraphs (1) and (2), if—

(A) such institution submits to the Secretary third-party financial guarantees, such as performance bonds or letters of credit payable to the Secretary, which third-party financial guarantees shall equal not less than one-half of the annual potential liabilities of such institution to the Secretary for funds under this title, including loan obligations discharged pursuant to section 437, and to students for refunds of institutional charges, including funds under this title;

(B) such institution has its liabilities backed by the full faith and credit of a State, or its equivalent;

(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or

(D) such institution has met standards of financial responsibility, prescribed by the Secretary by regulation, that indicate a level of financial strength not less than those required in paragraph (2).

(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the ratio of current assets to current liabilities imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—

(A) there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;

(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the current operating ratio requirement.

(5) The determination as to whether an institution has met the standards of financial responsibility provided for in paragraphs (2) and (3)(C) shall be based on an audited and certified financial statement of the institution. Such audit shall be conducted by a qualified independent organization or person in accordance with standards established by the American Institute of Certified Public Accountants. Such statement shall be submitted to the Secretary at the time such institution is considered for certification or recertification under this section. If the institution is permitted to be certified (provisionally or otherwise) and such audit does not establish compliance with paragraph (2), the Secretary may require that additional audits be submitted.

(6)(A) The Secretary shall establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds.

(B) The Secretary shall provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

(i) is located in a State that has a tuition recovery fund that ensures that the institution meets the requirements of subparagraph (A);

(ii) contributes to the fund; and

(iii) otherwise has legal authority to operate within the State.

(d) Administrative Capacity Standard.—The Secretary i authorized—

(1) to establish procedures and requirements relating t the administrative capacities of institutions of higher education, including—

(A) consideration of past performance of institutions o persons in control of such institutions with respect to student aid programs; and

(B) maintenance of records;

(2) to establish such other reasonable procedures as the Secretary determines will contribute to ensuring that the institution of higher education will comply with administrative capability required by this title.

(e) Financial Guarantees From Owners.—(1) Notwithstanding any other provision of law, the Secretary may, to the extent necessary to protect the financial interest of the United States, require—

(A) financial guarantees from an institution participating, or seeking to participate, in a program under this title, or from one or more individuals who the Secretary determines, in accordance with paragraph (2), exercise substantial control over such institution, or both, in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability to the Federal Government, student assistance recipients, and other program participants for funds under this title; and

(B) the assumption of personal liability, by one or more individuals who exercise substantial control over such institution, as determined by the Secretary in accordance with paragraph (2), for financial losses to the Federal Government, student assistance recipients, and other program participants for funds under this title, and civil and criminal monetary penalties authorized under this title.

(2)(A) The Secretary may determine that an individual exercises substantial control over one or more institutions participating in a program under this title if the Secretary determines that—

(i) the individual directly or indirectly controls a substantial ownership interest in the institution;

(ii) the individual, either alone or together with other individuals, represents, under a voting trust, power of attorney, proxy, or similar agreement, one or more persons who have, individually or in combination with the other persons represented or the individual representing them, a substantial ownership interest in the institution; or

(iii) the individual is a member of the board of directors, the chief executive officer, or other executive officer of the institution or of an entity that holds a substantial ownership interest in the institution.

(B) The Secretary may determine that an entity exercises substantial control over one or more institutions participating in a program under this title if the Secretary determines that the entity directly or indirectly holds a substantial ownership interest in the institution.

(3) For purposes of this subsection, an ownership interest is defined as a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation. An ownership interest may include, but is not limited to—

(A) a sole proprietorship;

(B) an interest as a tenant-in-common, joint tenant, or tenant by the entireties;

(C) a partnership; or

(D) an interest in a trust.

(4) The Secretary shall not impose the requirements described in subparagraphs (A) and (B) of paragraph (1) on an institution that—

(A) has not been subjected to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding 5 years;

(B) has not had, during its 2 most recent audits of the institutions conduct of programs under this title, an audit finding that resulted in the institution being required to repay an amount greater than 5 percent of the funds the institution received from programs under this title for any year;

(C) meets and has met, for the preceding 5 years, the financial responsibility standards under subsection (c); and

(D) has not been cited during the preceding 5 years for failure to submit audits required under this title in a timely fashion.

(5) For purposes of section 487(c)(1)(G), this section shall also apply to individuals or organizations that contract with an institution to administer any aspect of an institution's student assistance program under this title.

(f) ACTIONS ON APPLICATIONS; SITE VISITS AND FEES.—The Secretary shall ensure that prompt action is taken by the Department on any application required under subsection (b). The personnel of the Department of Education shall conduct a site visit at each institution before certifying or recertifying its eligibility for purposes of any program under this title. The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden. The Secretary may charge reasonable fees to cover the expenses of certification and site visits and, to the extent permitted by appropriations Acts, may retain such fees to cover such expenses.

(g) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—(1) The eligibility for the purposes of any program authorized under this title of any institution that is participating in any such program on the date of enactment of the Higher Education Amendments of 1992 shall expire in accordance with the schedule prescribed by the Secretary in accordance with paragraph (2), but not later than 5 years after such date of enactment.

(2) The Secretary shall establish a schedule for the expiration of the eligibility for purposes of any such program of all institutions of higher education within the 5-year period specified in paragraph (1). Such schedule shall place a priority for the expiration of the

certification of institutions on those that meet the following criteria:

(A) institutions subject to review by a State postsecondary review entity pursuant to subpart 1 of part H; or

(B) other categories of institutions which the Secretary deems necessary.

(3) After the expiration of the certification of any institution under the schedule prescribed under this subsection, or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this title of each such institution for a period not to exceed 4 years.

(h) PROVISIONAL CERTIFICATION OF INSTITUTIONAL ELIGIBILITY.—(1) Notwithstanding subsections (d) and (g), the Secretary may provisionally certify an institution's eligibility to participate in programs under this title—

(A) for not more than one complete award year in the case of an institution of higher education seeking an initial certification; and

(B) for not more than 3 complete award years if—

(i) the institution's administrative capability and financial responsibility is being determined for the first time;

(ii) there is a complete or partial change of ownership, as defined under subsection (i), of an eligible institution; or

(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.

(2) Whenever the Secretary withdraws the approval of any accrediting agency, an institution of higher education which meets the requirements of accreditation, eligibility, and certification on the day prior to such withdrawal, the Secretary may, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this title for a period not to exceed 18 months from the date of the withdrawal of approval.

(3) If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this title.

(i) TREATMENT OF CHANGES OF OWNERSHIP.—(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this title after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 481 (other than the requirements in subsections (b)(5) and (c)(3)) and this section after such change in control.

(2) An action resulting in a change in control may include (but is not limited to)—

(A) the sale of the institution or the majority of its assets;

(B) the transfer of the controlling interest of stock of the institution or its parent corporation;

(C) the merger of two or more eligible institutions;

(D) the division of one or more institutions into two or more institutions;

(E) the transfer of the controlling interest of stock of the institutions to its parent corporation; or

(F) the transfer of the liabilities of the institution to its parent corporation.

(3) An action that may be treated as not resulting in a change in control includes (but is not limited to)—

(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or

(B) another action determined by the Secretary to be a routine business practice.

(j) TREATMENT OF BRANCHES.—(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this title, except that such branch shall not be required to meet the requirements of sections 481(b)(5) and 481(c)(3) prior to seeking such certification. Such branch is required to be in existence at least 2 years prior to seeking certification as a main campus or free-standing institution.

(2) The Secretary may waive the requirement of section 1201(a)(2) for a branch that (A) is not located in a State, (B) is affiliated with an eligible institution, and (C) was participating in one or more programs under this title on or before January 1, 1992.

(20 U.S.C. 1099c) Enacted July 23, 1992, P.L. 102–325, sec. 499, 106 Stat. 647; amended December 20, 1993, P.L. 103–208, sec. 2(i)(9)–(14), 107 Stat. 2479–80.

SEC. 498A. PROGRAM REVIEW AND DATA.

(a) GENERAL AUTHORITY.—In order to strengthen the administrative capability and financial responsibility provisions of this title, the Secretary—

(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this title;

(2) may give priority for program review to institutions of higher education that are—

(A) institutions with a cohort default rate for loans under part B of this title in excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

(B) institutions with a default rate in dollar volume for loans under part B of this title which places the institutions in the highest 25 percent of such institutions;

(C) institutions with a significant fluctuation in Federal Stafford Loan volume or Federal Pell Grant awards, or both, in the year for which the determination is made compared to the year prior to such year;

(D) institutions reported to have deficiencies or financial aid problems by the appropriate State postsecondary review entity designated under subpart 1 of this part or by the appropriate accrediting agency or association;

(E) institutions with high annual dropout rates;

(F) any institution which is required to be reviewed by a State postsecondary review entity pursuant to subpart 1 of part H under section 494C(b); and

(G) such other institutions as the Secretary deems necessary; and

(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification that includes—

(A) all information available to the Department;

(B) all relevant information made available by the Secretary of Veterans Affairs;

(C) all relevant information from accrediting agencies or associations;

(D) all relevant information available from a guaranty agency; and

(E) all relevant information available from States under subpart 1.

(b) Special Administrative Rules.—(1) In carrying out paragraphs (1) and (2) of subsection (a), the Secretary shall establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education.

(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.

(c) Data Collection Rules.—The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a). The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this title.

(d) Training.—The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this title.

(e) Special Rule.—The provisions of section 103(b) of the Department of Education Organization Act shall not apply to Secretarial determinations made regarding the appropriate length of instruction for programs measured in clock hours.

(20 U.S.C. 1099c–1) Enacted July 23, 1992, P.L. 102–325, sec. 499, 106 Stat. 652; amended December 20, 1993, P.L. 103–208, sec. 2(i)(15), 107 Stat. 2480.

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

SEC. 500. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) teachers in the classroom are the men and women who must play an integral role in leading our Nation's schools into the 21st century;

(2) we should encourage individuals to enter the education profession so that our teaching force is representative both of the diversity of our Nation and of the tremendous talents and skills of our citizens;

(3) the methods used to prepare prospective teachers and the continuing education and support provided to practicing teachers have a significant influence on the effectiveness of classroom teachers;

(4) the postsecondary education of education professionals has not been linked to local, State and national goals and standards;

(5) the inservice and continuing professional development of educators has not promoted systematic and sustained improvement of the education system;

(6) State educational agencies have not been funded and staffed adequately to carry out a mission of supporting a process to achieve local, State, or national goals and standards;

(7) in order to encourage more women and underrepresented minorities to enter the fields of science and mathematics and succeed in these fields, we must provide proper training for existing mathematics and science teachers and recruit women and underrepresented minorities as teachers in these fields;

(8) educators must have the expertise and the support that allow them to adapt to the changing environment in our schools and to the evolving skills required of our schools' graduates; and

(9) the Federal Government plays an essential role in providing support to educator training and professional development that will enable teachers to be classroom leaders and administrators to be school leaders at the forefront of reforming our Nation's schools.

(b) PURPOSE.—It is the purpose of this title—

(1) to provide assistance to our Nation's teaching force for the continued improvement of their professional skills;

(2) to provide assistance for professional development activities enabling teachers, school administrators, and institutions of higher education to work collaboratively to improve educational performance through school reform and restructuring;

(3) to address the Nation's teacher shortage, particularly in areas where there are heavy concentrations of low-income students, by encouraging talented persons, including the individuals already employed as school paraprofessionals and individuals who have been employed in other areas of endeavor, to enter the teaching profession;

(4) to encourage academically qualified students to become teachers through scholarship assistance;

(5) to support the recruitment of underrepresented populations into teaching careers;

(6) to provide scholarship assistance to encourage women and minorities who are underrepresented in the fields of science and mathematics to enter the teaching profession in these fields;

(7) to encourage the establishment and maintenance of programs that provide professional teacher preparation to individuals who are moving to careers in education from other occupations;

(8) to promote partnerships between institutions of higher education and local educational agencies for the purpose of promoting the simultaneous restructuring and renewal of elementary and secondary schools and college-based teacher education programs;

(9) to improve the leadership and administrative skills of elementary and secondary school administrators;

(10) to provide assistance to schools of education in institutions of higher education in order to reform teacher education programs by encouraging new developments in teacher preparation which provide for greater integration of subject matter and pedagogical training and which prepare classroom teachers to effectively meet changing noneducational challenges in the schools; and

(11) to promote high quality child development and early childhood education specialist training programs, including preschool and early intervention services for infants and toddlers with disabilities.

(20 U.S.C. 1101) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 653.

PART A—STATE AND LOCAL PROGRAMS FOR TEACHER EXCELLENCE

SEC. 501. AUTHORITY AND ALLOCATION OF FUNDS; DEFINITIONS.

(a) PURPOSE AND AUTHORITY.—

(1) PURPOSE.—It is the purpose of this part to provide funds to State educational agencies, local educational agencies and institutions of higher education in order to update and improve the skills of classroom teachers, including preschool and early childhood education specialists and school administrators, to establish State academies for teachers and school leaders, and to provide for a comprehensive examination of State requirements for teacher preservice and certification.

(2) PROGRAM AUTHORIZED.—The Secretary is authorized to make allotments to State educational agencies for the purposes of enhancing and improving the quality of teaching, including early childhood education, in each of the several States.

(b) ALLOTMENT OF FUNDS.—

(1) IN GENERAL.—From the funds appropriated in each fiscal year pursuant to section 510A, the Secretary shall allot to each State—

(A) 50 percent of such funds on the basis of the number of individuals in the State aged 5 through 17 compared to the number of all such individuals in all States; and

(B) 50 percent of such funds on the basis of the amount the State receives under sections 1005 and 1006 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 compared to the total amount that all States receive under such sections.

(2) ALLOCATIONS FROM STATE ALLOTMENTS.—

(A)(i) Except as provided in subsection (c), from the amount allotted to each State in each fiscal year pursuant to paragraph (1) and not reserved pursuant to subparagraph (B)(i), the State education agency shall allocate 50 percent of such amount in accordance with clause (ii) to local eduational agencies to carry out the activities described in section 503.

(ii) The State educational agency shall allocate 50 percent of the amount allotted to the State in each fiscal year under paragraph (1) so that—

(I) one-half of such amount is allocated to local educational agencies within such State based on the local educational agency's relative share of the enrollments in public schools within the State; and

(II) one-half of such amount is allocated to local educational agencies within such State based on the local educational agency's relative share of the State's allocation of funds under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965,

except that any local educational agency that would receive an allocation of less than $10,000 shall be required to form a consortium with at least one other local educational agency in order to receive an allocation under this part. In making allocations under this part, the State educational agency shall use the most recent data available.

(B)(i) From the amount allotted to each State in each fiscal year pursuant to paragraph (1) the State educational agency shall reserve not more than 3 percent of such funds for the purposes of administering the program under this title, including evaluation and dissemination activities.

(ii) From the amount allotted to each State in each fiscal year under paragraph (1) and not reserved pursuant to clause (i), the State educational agency—

(I) shall reserve not more than 25 percent of such funds to carry out sections 504, 505, and 506; and

(II) shall reserve not more than 25 percent of such funds to award grants to institutions of higher education in accordance with sections 507 and 508.

(c) SPECIAL RULE.—Notwithstanding the provisions of subsection (b)(2)(A), if the amount appropriated to carry out this part for any fiscal year is less than $250,000,000, then each State educational agency shall use 50 percent of the amount allotted to such State under paragraph (1) and not reserved pursuant to subsection (b)(2)(B)(i) to award grants to local educational agencies on a competitive basis.

(d) REALLOTMENT.—If a State or local educational agency elects not to receive assistance under this part in any fiscal year or the Secretary determines in any fiscal year that a State or local educational agency will not be able to use all or any portion of the funds available to such State or local educational agency under this part, then the Secretary shall reallot such funds. The Secretary shall reallot such funds in such fiscal year in accordance with the provisions of this part among the States or local educational agencies who are eligible for assistance under this part and are not described in the preceding sentence.

(e) DEFINITIONS.—For purposes of this part—

(1) the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Republic of Palau (until the Compact of Free Association takes effect pursuant to section 101(a) of Public Law 99–658); and

(2) the term "key academic subjects" means English, mathematics, science, history, geography, foreign languages, civics and government, and economics.

(20 U.S.C. 1102) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 653.

SEC. 502. STATE APPLICATION.

(a) IN GENERAL.—Any State which desires to receive an allotment under this part shall submit to the Secretary an application which—

(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this part;

(2) provides for a process of active discussion and consultation with a committee, convened by the chief State school officer, which is broadly representative of the following educational interests within the State, including—

(A) a representative nominated by each of the following:

(i) the State teacher organizations;

(ii) the organizations representing preschool and early childhood education specialists;

(iii) the State school administrators organization;

(iv) the State parents organizations;

(v) the State business organizations; and

(vi) the State student organizations;

(B) a representative from the State board of education;

(C) a representative of faculty from departments, schools or colleges of educations;

(D) other representatives of institutions of higher education, including community colleges;

(E) the State director of vocational education; and

(F) the State director of special education;

(3) describes the competitive process that the State will use to distribute funds among local educational agencies pursuant to section 501(c);

(4) describes the process the State will use to conduct the assessment required by section 504(c);

(5) describes how the State will allocate funds among activities required under section 504;

(6) with respect to the State academies to be established under sections 505 and 506—

(A) describes the academies to be established under this part and the goals and objectives for each such academy;

(B) describes how the academies assisted under this part shall relate to the overall plan for the attainment of the national education goals by the State;

(C) describes the competitive process that shall be used to select applicants to operate the academies assisted under this part;

(D) assures that the Academies for Teachers shall provide instruction in the key academic subjects;

(E) assures that the State shall continue to operate the academies assisted under this part when Federal funds provided pursuant to this title are no longer available;

(F) assures that Federal funds provided under this part shall not be used for construction of new facilities or substantial remodeling;

(G) assures that the Academies for Teachers shall provide activities designed to enhance the ability of teachers to work with special educational populations, including—

(i) limited-English proficient children;

(ii) children with disabilities;

(iii) economically and educationally disadvantaged children; and

(iv) gifted and talented children; and

(H) contains such other assurances and information as the Secretary may reasonably require;

(7) describes the competitive process that the State will use to distribute funds among institutions of higher education pursuant to section 507;

(8) describes a plan to promote learning among the State educational agency staff in order to support and facilitate systemic improvement of the State educational agency, schools or colleges of education at institutions of higher education, and local educational agencies; and

(9) includes such other information and assurances as the Secretary may require.

(b) FUNCTIONS OF COMMITTEE.—The application required by subsection (a) shall identify the procedures by which the committee required by paragraph (2) of such subsection will be engaged in—

(1) ensuring that activities assisted under this part are effective, coordinated with other State, local, and Federal activities and programs, and meet the needs of the State for improving the quality of teaching and teacher education programs, including those programs concerned with preschool education and the training of early childhood education specialists, and school leadership programs;

(2) advising the State on criteria for awarding funds under sections 501(c), 505, 506, and 507; and

(3) advising the State on criteria for approving local educational agency applications under section 503(a).

(c) EVALUATION AND REPORT.—

(1) REPORT TO SECRETARY.—Each State educational agency receiving an allotment under this part shall evaluate the work of each academy that is located in the State and assisted under this part every 2 years, including the impact of each academy's programs on participants, and report the findings of such evaluation to the Secretary. The initial report shall be submitted 3 years after funds are first allotted to such State educational agency under section 501 and subsequent reports shall be submitted every 2 years thereafter. Such report shall also describe the characteristics of the participants and activities provided at each academy assisted under this part.

(2) REPORT TO CONGRESS.—The Secretary shall submit to the Congress a summary of the reports required under subsection (a). The initial summary shall be submitted 60 days after the due date of the first report described in subsection (a) and subsequent summaries shall be submitted every 2 years thereafter.

(20 U.S.C. 1102a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 656.

SEC. 503. LOCAL APPLICATION AND USE OF FUNDS.

(a) LOCAL APPLICATION.—Any local educational agency which desires to receive assistance under section 501(b)(2)(A) or 501(c) shall submit to the State educational agency an application which—

(1) describes the needs of such local educational agency with respect to inservice training programs for teachers and preschool and early childhood education specialists pursuant to the assessment conducted under subsection (b)(2)(A), and, if appropriate, describes the need of such local educational agency for teacher recruitment, business partnerships, outreach to military veterans, and the provision of other opportunities for teachers to improve their skills;

(2) describes the process used to determine such needs, including consultation with teachers, preschool and early childhood specialists, principals, parents, representatives from departments, schools or colleges of education, and others in the community;

(3) describes the activities such agency intends to conduct with the funds provided under section 501(b)(2)(A) or 501(c) consistent with the provisions of this section in order to improve the quality of teaching within such agency;

(4) describes the processes and methods used to promote systematic improvement through continual learning in order to achieve agreed upon local, State and National standards; and

(5) any other information that the State educational agency may reasonably require.

(b) LOCAL USES OF FUNDS.—

(1) IN GENERAL.—Local educational agencies receiving assistance under section 501(b)(2)(A) or 501(c) shall use such funds for the inservice training of teachers and, if appropriate, for preschool and early childhood education specialists, and may use funds for—

(A) development of programs to recruit individuals into the teaching profession and the field of early childhood education;

(B) business partnerships;

(C) outreach to military veterans; and

(D) other purposes consistent with improving the quality of teaching in the local educational agency, as approved by the State educational agency.

(2) INSERVICE TRAINING.—

(A) In order to receive assistance under section 501(b)(2)(A) or 501(c), a local educational agency or a consortium of local educational agencies shall first assess the needs of such agency or agencies for inservice training.

(B) Funds expended for inservice training shall be used, in accordance with the assessment conducted under subparagraph (A), for the cost of—

(i) the expansion and improvement of inservice training and retraining of teachers and other appropriate school personnel, including vocational teachers, special education teachers, and preschool teachers, consistent with the assessment conducted under subparagraph (A);

(ii) providing funds for grants for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms;

(iii) activities designed to address the effects of chronic community violence on children, such as violence counseling training for teachers and early childhood specialists, and activities and training aimed at resolving conflicts;

(iv) activities designed to enhance the ability of teachers to work with culturally diverse students;

(v) activities designed to integrate academic and vocational education;

(vi) as appropriate, activities designed to assist teacher participation in a Tech-Prep program under section 344 of the Carl D. Perkins Vocational and Applied Technology Act, in order to develop the skills of such teachers in activities such as organizational development leadership and interdisciplinary curricula development; and

(vii) other activities consistent with the goals of this part as approved by the State educational agency.

(C) Such activities may be carried out through agreements with institutions of higher education, nonprofit organizations, public agencies, and museums.

(D) Activities related to inservice training shall be coordinated with such activities carried out under part A of title II of the Elementary and Secondary Education Act of 1965.

(3) RECRUITMENT OF TEACHERS.—

(A) Local educational agencies receiving assistance under section 501(b)(2)(A) or 501(c) may use such assistance—

(i) to establish, operate, or expand programs to encourage and recruit interested individuals to pursue a course of study that will lead to a career in education; and

(ii) to establish, operate, or expand a program where such agency recruits students currently enrolled in a school in the local educational agency to be teachers or early childhood education specialists.

(B) Activities under this paragraph may include—

(i) academic and career counseling of and support services for students;

(ii) programs in which students act as tutors while they are enrolled in schools in the local educational agency;

(iii) programs in which students enrolled in institutions of higher education and other individuals tutor students within schools in the local educational agency;

(iv) information and recruitment efforts to attract individuals into the teaching profession; and

(v) programs to support early childhood education efforts at the preschool and school level.

(C) In conducting programs under this paragraph, local educational agencies shall place a priority on recruiting students and individuals from minority groups.

(D) Local educational agencies may conduct programs under this paragraph in consortia with institutions of higher education.

(4) BUSINESS PARTNERSHIPS.—Local educational agencies receiving assistance under section 501(b)(2)(A) or 501(c) may use such assistance to establish partnerships with representatives of the business community to sponsor—

(A) programs which allow representatives of local business or firms to go into the classroom and work with the classroom teacher to provide instruction in subject areas where the expertise of the teacher could be supplemented, especially in the subject areas of mathematics, science, and vocational and technology education training;

(B) internship programs which provide an opportunity for classroom teachers to work in local businesses or firms to gain practical experience or to develop new skills or expertise;

(C) programs which bring students and teachers into business settings to see applications of course work and in specialized areas, and to learn to use advanced technical equipment;

(D) programs which allow representatives of local businesses and firms to work with school administrators to develop instructional material; and

(E) other activities appropriate to forming a working relationship between business leaders and classroom leaders.

(5) OUTREACH TO MILITARY VETERANS.—Local educational agencies receiving assistance under section 501(b)(2)(A) or 501(c) may use such assistance to establish programs to inform United States military veterans of teaching opportunities and to provide assistance in the establishment of teaching opportunities for such veterans by—

(A) planning and implementing informational and outreach programs leading to the development of programs specifically designed to inform United States military veterans about teaching opportunities and the qualifications necessary for such opportunities;

(B) planning and implementing programs leading to the creation of teaching opportunities for such veterans;

(C) supporting programs to assist such veterans to meet the qualifications to become teachers;

(D) disseminating information on the program described in this paragraph and on sources of student financial assistance available under title IV of this Act and under programs administered by the Department of Veterans Affairs and other Federal agencies; and

(E) making scholarships available to such military veterans under the same terms and conditions specified in subpart 1 of part C of this title.

(20 U.S.C. 1102b) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 658.

SEC. 504. STATE USES OF FUNDS.

(a) IN GENERAL.—Each State educational agency receiving funds reserved pursuant to section 501(b)(2)(B)(ii)(I) shall use such funds—

(1) first, to conduct a study of teacher education programs within such State, as required under subsection (c); and

(2) secondly, for—

(A) the establishment of State Academies for Teachers under section 505;

(B) the establishment of State Academies for School Leaders under section 506; and

(C) activities directly related to the implementation of the teacher education study required under subsection (c).

(b) SPECIAL RULE.—If a State educational agency can demonstrate that the amount of funds reserved pursuant to section 501(b)(2)(B)(ii)(I) is insufficient to establish one State academy, then the State educational agency shall distribute such funds to local educational agencies in accordance with section 501(b)(2)(A) or 501(c) to carry out the activities described in section 503(b).

(c) TEACHER EDUCATION STUDY.—

(1) STUDY REQUIRED.—Each State educational agency receiving funds under this part shall, in consultation with institutions of higher education, local educational agencies, teachers, parents, the State legislature, the State board of education, and business, undertake a study of—

(A) teacher education programs and State teacher professional development requirements, including programs and requirements intended to train preschool and early childhood education specialists; and

(B) the State laws and regulations relating to such programs and requirements, including any standards or requirements for certification and licensure,

in order to determine if such programs and requirements are adequately preparing teachers to effectively educate students.

(2) CONSIDERATIONS.—Such study shall consider whether such programs or requirements—

(A) would be improved if teacher education programs were required to coordinate courses with other departments on campus in order to provide prospective teachers with a strong background in their subject matter;

(B) integrate academic and vocational education instruction;

(C) give enough flexibility in order to allow experimentation and innovation;

(D) would be improved if such programs provided preparation for students desiring to become teachers, but who are pursuing a bachelor's degree in an area of study other than education;

(E) would be improved if teacher certification required a bachelor's degree in a subject area and a master's degree in education; and

(F) would be improved if institutions of higher education that have developed innovative materials and curricula for inservice training were required to incorporate these improvements into their preservice programs.

(3) DEADLINES.—

(A) Such study shall be completed by two years from the end of the first fiscal year in which funding was made available for this part. The results of such study shall be reported to the Secretary. In submitting the report to the Secretary, the State educational agency shall include in the report the most successful practices used to enhance the profession of teaching. The Secretary may disseminate such successful practices in order to assist other States in their efforts to enhance the profession of teaching.

(B) Except as provided in paragraph (4), beginning in the third fiscal year for which funding under this part is available, State educational agencies shall use all funds provided under section 501(b)(2)(B)(ii)(I) which are not allotted for State Academies for Teachers and State Academies for School Leaders—

(i) to implement the program and policy changes resulting from the findings of such study; and

(ii) to assist schools and programs of education throughout the State in meeting any new requirements that result from such study.

(C) The State educational agency shall award grants pursuant to section 507(b)(9) to institutions of higher edu-

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cation to implement the programs and policy changes resulting from the findings of such study.

(4) WAIVER.—If a State demonstrates to the Secretary that it has completed a study comparable to the study required by this subsection within the previous 5 years prior to the fiscal year for which funds are first made available under this part, then the Secretary may waive the requirements of this subsection. States receiving a waiver shall use funds provided under section 501(b)(2)(B)(ii)(I) to implement the program and policy changes resulting from the findings of such study. If the State can demonstrate to the Secretary that such program and policy changes have been implemented, then the State shall use funds provided under section 501(b)(2)(B)(ii)(I) to carry out the activities authorized under sections 505 and 506.

(20 U.S.C. 1102c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 661.

SEC. 505. STATE ACADEMIES FOR TEACHERS.

(a) PURPOSE; DEFINITIONS.—

(1) PURPOSE.—It is the purpose of this section to improve elementary and secondary school teacher subject matter knowledge and teaching skills in each of the key academic subjects by establishing one or more Academies in the key academic subjects in every State.

(2) DEFINITIONS.—For purposes of this section—

(A) the term "Academy" means a course of instruction and related activities to increase a teacher's knowledge of a specific subject area, a teacher's ability to impart such knowledge to students, and a teacher's ability to address any other issue described in this section, except that such term—

(i) does not mean a physical facility; and

(ii) does not require a separate location from another Academy or other training program; and

(B) the term "eligible entity" means a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more of such entities.

(b) APPLICATION REQUIRED.—

(1) IN GENERAL.—Each eligible entity desiring to operate an Academy under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall describe—

(A) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

(B) the curriculum to be used or developed by the Academy;

(C) steps to be taken to recruit teachers for the Academy's program, including outreach efforts to identify and attract—

(i) minority group members;

(ii) individuals with disabilities;

(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

(iv) other teachers with the potential to serve as mentor teachers;

(D) steps to be taken to ensure that faculty members teaching at the Academy shall be of exceptional ability and experience, including outreach efforts to identify and attract as faculty members—

(i) minority group members;

(ii) individuals with disabilities; and

(iii) individuals from areas with large numbers or concentrations of disadvantaged students;

(E) efforts to be undertaken to disseminate information about the Academy;

(F) selection criteria to be used in identifying teachers to participate in the Academy;

(G) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge; and

(H) efforts to be undertaken to evaluate the impact of the Academy on participants.

(c) USE OF ALLOTTED FUNDS.—

(1) GRANTS.—Each State educational agency receiving an allotment under this part shall use the funds reserved pursuant to section 501(b)(2)(B)(ii)(I) to award one or more competitive grants to eligible entities to enable such eligible entities to operate an Academy in accordance with the provisions of this section.

(2) COORDINATION OF ACTIVITIES.—To the extent practicable, such academies shall coordinate efforts with teacher inservice activities of local educational agencies.

(3) COMBINATION OF RESOURCES.—Each State educational agency receiving an allotment under this part may combine the funds reserved pursuant to section 501(b)(2)(B)(ii)(I) with such funds reserved by another State educational agency to operate academies assisted under this part on a multistate or regional basis.

(4) COSTS.—Each eligible entity receiving a grant under this section shall use such funds to meet the operating costs of carrying out the activities described in subsection (d), which may include reasonable startup and initial operating costs, and costs associated with release time, stipends, travel, and living expenses for teachers who participate in the Academy's program if no other funds are available to pay such costs.

(d) AUTHORIZED ACTIVITIES.—Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

(1) renewal and enhancement of participants' knowledge in key academic subjects;

(2) skills and strategies to improve academic achievement of students, especially students who are educationally dis-

advantaged, are limited-English proficient, are drug- or alcohol-exposed, or have disabilities;

(3) improved teaching and classroom management skills;

(4) techniques for the integration of academic and vocational subject matter, including the application of such techniques in tech/prep education programs;

(5) the use of educational technologies in teaching the key academic subjects;

(6) training needed to participate in curriculum development in a key academic subject;

(7) training in the development and use of assessment tools;

(8) review of existing teacher enhancement programs to identify the most promising approaches;

(9) development of a curriculum for use by the Academy;

(10) follow-up activities for previous participants;

(11) dissemination of information about the Academy, including the training curricula developed; and

(12) any other activities proposed by the applicant and approved by the State educational agency.

(e) COST SHARING.—Funds received for this section may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this section, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and may be in cash or in-kind contributions, fairly valued.

(f) SPECIAL RULES.—

(1) USES OF FUNDS.—

(A) KEY ACADEMIC SUBJECTS.—At least 70 percent of funds received for this section shall be used for enhancement of participant knowledge in key academic subjects.

(B) OTHER SUBJECTS.—At least 20 percent of the funds received for this section shall be used for enhancement of participant knowledge in areas not related to academic subjects.

(2) SPECIAL RULE.—In awarding grants under this section the State educational agency may provide for training in 2 or more key academic subjects at a single site.

(3) ADDITIONAL ACADEMIES OR AWARDS.—If a State can demonstrate that the State's need for academies in key academic subjects has been met, and if the State can demonstrate that it is implementing the findings of the teacher education study described in section 504(c), then the State may use a portion of the amount reserved pursuant to section 501(b)(2)(B)(ii)(I) to establish one or more of the following academies or awards:

(A) EARLY CHILDHOOD ACADEMIES.—A State educational agency may establish an academy aimed at early childhood education training. Such an academy shall give a priority to recruiting candidates from underrepresented groups in the early childhood education profession and shall provide intensive childhood training in violence counseling.

(B) TECH-PREP ACADEMIES.—A State educational agency may establish an academy for—

(i) assisting educators in secondary schools and community colleges to more effectively understand organizational structures and organizational change strategies;

(ii) assisting educators to learn effective peer leadership strategies;

(iii) assisting secondary school teachers and community college faculty to identify the knowledge and skills required in highly technical industries and workplaces;

(iv) assisting secondary school teachers and community college faculty to apply creative strategies to the development of interdisciplinary curricula; and

(v) assisting educators in integrating academic and vocational education.

(C) TEACHER AWARDS.—(i) A State educational agency may make awards to State Academies for Teachers to provide for a program of cash awards and recognition to outstanding teachers in the key academic subject or subjects covered by the program of the Academy.

(ii) Any full-time public or private elementary or secondary school teacher of a key academic subject or vocational and technology education subject, including an elementary school teacher of the general curriculum, shall be eligible to receive an award under this subparagraph.

(iii) The amount of a teacher's award under this subparagraph shall not exceed $5,000 and shall be available for any purpose the recipient chooses.

(iv) Each Academy receiving an award under clause (i) of this subparagraph shall select teachers to receive awards from nominations received from local educational agencies, public and private elementary and secondary schools, teachers, associations of teachers, parents, associations of parents and teachers, businesses, business groups, and student groups.

(v) The Academy shall select award recipients under this subparagraph in accordance with criteria developed by the Academy and approved by the State educational agency. The selection criteria may take into account teacher's success in—

(I) educating disadvantaged children and children with disabilities;

(II) educating gifted and talented children;

(III) encouraging students to enroll, and succeed, in advanced classes in a key academic subject or vocational and technology education subject;

(IV) teaching a key academic subject or vocational and technology education subject successfully in schools educating large numbers of educationally disadvantaged students, including schools in low-income inner-city or rural areas;

(V) introducing a new curriculum in a key academic subject into a school or strengthening an established curriculum;

(VI) acting as a master teacher; and

(VII) other criteria as developed by the Academies and approved by the State educational agency.

(20 U.S.C. 1102d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 663; amended December 20, 1993, P.L. 103–208, sec. 2(j)(1), 107 Stat. 2480.

SEC. 506. STATE ACADEMIES FOR SCHOOL LEADERS.

(a) PURPOSE; DEFINITIONS.—

(1) PURPOSE.—It is the purpose of this section to improve the training and performance of school principals and other school leaders and to increase the number of persons who are highly trained to be principals and school leaders by establishing an Academy for current and prospective school leaders in every State.

(2) DEFINITIONS.—For the purpose of this section—

(A) the term "Academy" means a course of instruction and related activities to increase a school leader's knowledge of the tools and techniques of school management and leadership, and such leader's ability to exercise such tools and techniques in the school setting, and may include a course of instruction for school district level system leaders separately or in combination with school leaders and teachers, except that such term—

(i) does not mean a physical facility; and

(ii) does not require a separate location from another Academy or other training program; and

(B) the term "eligible entity" means a technical assistance center assisted under subpart 2 of part C of title V of this Act as such Act was in effect on the day before the date of enactment of the Higher Education Amendments of 1992, a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more such entities.

(b) APPLICATION REQUIRED.—

(1) IN GENERAL.—(A) Each eligible entity desiring to operate an Academy under this section shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State may reasonably require. Such Academy may be operated in cooperation or consortium with an Academy of another State.

(B) A priority for awards shall be given to entities who received funds under subpart 2 of part C of title V of the Higher Education Act as in effect on September 30, 1991.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall describe—

(A) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

(B) the curriculum to be used or developed by the Academy;

(C) the steps to be taken to recruit school leaders for the Academy's program, including outreach efforts to identify and attract—

(i) minority group members;

(ii) individuals with disabilities;

(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

(iv) other individuals with potential to become school leaders;

(D) efforts to be taken to disseminate information about the Academy;

(E) selection criteria to be used in identifying school leaders to participate in the Academy;

(F) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge;

(G) steps to be taken to assure the involvement of private sector managers and executives from businesses in the conduct of the Academy's programs; and

(H) efforts to be undertaken to evaluate the impact of the Academy on participants.

(c) USE OF ALLOTTED FUNDS.—

(1) GRANTS.—Each State educational agency receiving an allotment under this part shall use the funds reserved pursuant to section 501(b)(2)(B)(ii)(I) to award a competitive grant to an eligible entity to enable such eligible entity to operate an Academy in accordance with the provisions of this subpart.

(2) COSTS.—Each eligible entity receiving a grant under this section shall use such funds to meet the costs of carrying out the activities described in subsection (d), which may include reasonable startup and initial operating costs, and stipends, travel, and living expenses for participants in the Academy if no other funds are available to pay such costs.

(3) LIMITATIONS.—

(A) PARTICIPANTS.—At least 70 percent of the participants in an Academy shall be from the school building level.

(B) SPECIAL RULE.—In awarding grants under this section, the State educational agency may provide for the location at the same site of Academies assisted under this section and Academies assisted under section 505.

(d) AUTHORIZED ACTIVITIES.—Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

(1) developing and enhancing of participants' knowledge in instructional leadership, school-based management, shared decisionmaking, school improvement strategies and school-level accountability mechanisms;

(2) identifying candidates, including members of minority groups, individuals with disabilities, and individuals from schools with high numbers or concentrations of educationally

disadvantaged students and individuals who are bilingual, to be trained as new school leaders;

(3) conducting programs which provide for the involvement of private sector managers and executives from businesses;

(4) identifying models and methods of leadership training and development that are promising or have proven to be successful;

(5) providing intensive training and development programs for current school leaders seeking enhanced and up-to-date knowledge needed to perform their jobs effectively;

(6) identifying local educational agencies and schools with principal and other school leader vacancies and working with such agencies and schools to match Academy participants with such vacancies;

(7) facilitating internships for graduates of the program for new school leaders, under the guidance and supervision of experienced administrators;

(8) providing periodic follow-up development activities for school leaders trained through the Academy's programs;

(9) disseminating information about the Academy, including the training curricula developed;

(10) coordinating activities with those of any State Academies for Teachers established in the State; and

(11) any other activity proposed by the applicant in the application submitted pursuant to subsection (b) and approved by the State educational agency.

(e) COST-SHARING.—Funds received under this section may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this subpart, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and be in cash or in kind, fairly valued.

(20 U.S.C. 1102e) Enacted July 23, 1992, P.L. 102-325, sec. 501(a), 106 Stat. 666.

SEC. 507. INSTITUTIONS OF HIGHER EDUCATION USES OF FUNDS.

(a) APPLICATIONS.—Institutions of higher education desiring to receive a grant under section 501(b)(2)(B)(ii)(II) shall submit to the State educational agency an application which—

(1) describes the types of activities that the institution plans to undertake with funds provided;

(2) describes the process used by the institution to determine the State's needs for improving teacher education and training for preschool and early childhood education specialists, including consulting with current students, teachers, representatives from local educational agencies, parents, and representatives from preschool and early childhood specialists;

(3) if such institution is applying for a grant to assist local educational agencies in providing inservice training for teachers, describes the training and services that such institution plans to provide for teachers within the local educational agency and demonstrates that such training and services are con-

sistent with the needs of the local educational agencies to be served;

(4) if such institution is applying for a grant to establish a professional development academy, contains the information required pursuant to section 508;

(5) describes how the institution plans to integrate academic and vocational teacher education programs; and

(6) contains any other information that may be required by the State educational agency.

(b) AWARDS.—The State educational agency shall award grants on a competitive basis to institutions of higher education that have departments, schools, or colleges of education. In awarding grants, the State educational agency shall award funds for the following purposes:

(1) For the establishment of professional development academies pursuant to section 508.

(2) For the establishment and maintenance of programs that provide teacher training to individuals who are moving to a career in education from another occupation.

(3) For institutions of higher education in consultation and cooperation with a local educational agency or a consortium of local educational agencies, to develop and provide technical assistance to local education agencies in providing inservice training for teachers.

(4) For improving teacher education programs in order to further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

(5) For improving training for preschool and early childhood education specialists, including preschool and early intervention services for infants and toddlers with disabilities, in order to further innovation in such programs with institutions of higher education and to better meet the needs of preschool and early childhood education programs for well-prepared personnel.

(6) To integrate the instruction of academic and vocational teacher education programs.

(7) For activities to encourage individuals, especially individuals from minority groups, to pursue a career in education.

(8) For expanding cooperative educational programs between State educational agencies and offices, schools, and school systems, institutions of higher education, appropriate educational entities, and private sector establishments involved in education between the United States and the Republic of Mexico for the purpose of providing bilateral teaching initiatives and programs that provide teacher training experiences between the educational communities of the United States and those of the Republic of Mexico and to enhance mutually beneficial educational activities involving researchers, scholars, faculty members, teachers, educational administrators, and other specialists to lecture, teach, conduct research, and develop cooperative programs.

(9) When the study of teacher education programs is completed in accordance with section 504(c), to implement the pro-

gram and policy changes for teacher education programs resulting from the findings of such study.

(20 U.S.C. 1102f) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 669.

SEC. 508. PROFESSIONAL DEVELOPMENT ACADEMIES.

(a) AUTHORITY; DEFINITIONS.—

(1) AUTHORITY.—From amounts reserved pursuant to section 501(b)(2)(B)(ii)(II), the State educational agency is authorized to make grants to, and enter into contracts and cooperative agreements with, eligible entities to plan, establish, and operate professional development academies.

(2) DEFINITIONS.—For purposes of this section—

(A) the term "Academy" means school-based teacher training operated as a partnership between one or more elementary or secondary schools and one or more institutions of higher education that provides prospective and novice teachers an opportunity to work under the guidance of master teachers and college faculty members. Such Academy shall be established for the purpose of—

(i) the training of prospective and novice teachers (including preschool and early childhood education specialists, where appropriate) under the guidance of master teachers and teacher educators;

(ii) the continuing development of experienced teachers;

(iii) research and development to improve teaching and learning and the organization of schools;

(iv) public demonstration of exemplary learning programs for diverse students; and

(v) dissemination of knowledge produced in the research and development process;

except that such term—

(i) does not mean a physical facility; and

(ii) does not require a separate location from another Academy or other training program; and

(B) the term "eligible entity" means a partnership that includes one or more local educational agencies and one or more institutions of higher education and may include teachers and the business community.

(b) AWARDS AND RENEWALS.—An award made under this section may be in the form of a one-year planning grant. Such award may be renewed for implementation purposes without further competition annually for 4 additional years, upon submission of an evaluation of the project to the State educational agency and assurances that the recipient—

(1) has achieved the goals set out in its application for the original term;

(2) shows promise of continuing its progress;

(3) will meet its share of the project costs; and

(4) has developed a plan for continuing the Academy after Federal funding is no longer available.

(c) APPLICATION REQUIRED.—

(1) IN GENERAL.—Each eligible entity desiring to operate an Academy under this section shall submit an application to

the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to subsection (a) shall describe—

(A) what schools within the local educational agency and what institutions of higher education shall participate in the partnership or otherwise participate in the program;

(B) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches such goals;

(C) a plan for monitoring progress and evaluating the effectiveness of the Academy in meeting the goals it has developed for teacher and student performance;

(D) a description of the partnership's plan for systemic change in education, and a description of the activities and services for which assistance is sought;

(E) ways in which the professional development programs shall cover course content in key academic subjects, methods of instruction, and classroom and school-based management skills;

(F) plans to involve prospective and novice teachers in the programs offered by the Academy, including outreach efforts to identify and attract—

(i) minority group members;

(ii) individuals with disabilities; and

(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

(G) estimates of the number of prospective and beginning teachers to be trained in the Academy in each year of the project and assurances that a significant number of prospective and beginning teachers will be trained in the Academy in each year of the project.

(3) ASSURANCES.—Each application submitted pursuant to this subsection shall contain assurances that—

(A) professional development programs at the Academy shall be designed and conducted by faculty members from institutions of higher education and teachers from local schools of demonstrated excellence;

(B) in establishing the Academy, the applicant has consulted with teachers, administrators, and parents who will be affected at the teaching school site;

(C) participating faculty from institutions of higher education shall include faculty members who are experts in the key academic subjects; and

(D) the activities, services and programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge.

(4) PRIORITIES.—In making awards under this part, the State educational agency shall give priority to applicants that—

(A) select Academy sites based on need, as evidenced by such measures as a high rate of teacher attrition or a high proportion of the student body at risk of educational failure;

(B) propose projects that demonstrate the strong commitment to or previous active support for educational innovation;

(C) propose projects that demonstrate collaboration with other educational organizations, social or human service agencies, other community organizations, and the business community in the teaching school's operation;

(D) demonstrate potential for a significant impact on the quality of the future education work force; and

(E) demonstrate the long-term feasibility of the partnership.

(5) SPECIAL RULES.—Each such application shall describe—

(A) how the local educational agency will address the need to change or waive a local rule or regulation that is found by an Academy to impede the school's progress in achieving its goals; and

(B) how partners that are institutions of higher education will involve the School of Education, the School of Arts and Sciences, and the School of Technology or Engineering and any other department of the institution.

(d) USE OF ALLOTTED FUNDS.—

(1) PERMITTED USES.—Each eligible entity receiving a grant under this section shall use such funds to meet the operating costs of carrying out the activities described in subsection (e), which may include reasonable startup and initial operating costs, staff development, purchase of books, materials, and equipment, including new technology, costs associated with release time, payment of personnel directly related to the operation of the Academy, and participation in the activities of a network of Academies.

(2) LIMITATIONS.—The Secretary may limit the amounts of funds that may be used for minor remodeling and the purchase of equipment under this part.

(e) AUTHORIZED ACTIVITIES.—Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

(1) training and internship activities for prospective or novice teachers in a school setting under the guidance of master or mentor teachers and faculty from institutions of higher education, especially faculty who are experts in key academic subjects;

(2) mentoring and induction activities for prospective and novice teachers, including such teachers seeking to enter teaching through alternative routes;

(3) participation of experienced teachers in the internship training and assessment of prospective and beginning teachers;

(4) teaching skills and strategies to increase the ability of prospective, novice and experienced teachers to teach disadvantaged students, students with disabilities (including students with severe and multiple disabilities and students with lesser known or newly emerging disabilities), students who are lim-

ited-English proficient, and students from diverse cultural backgrounds;

(5) programs to enhance teaching and classroom management skills, including school-based management skills, of novice, prospective and experienced teachers;

(6) experimentation and research to improve teaching and learning conducted in the Academy by teachers and university faculty;

(7) activities to integrate academic and vocational education;

(8) training and other activities to promote the continued learning of experienced teachers, especially in their subject matter knowledge and how to teach it;

(9) participation of expert practicing teachers and administrators in the university-based education studies of prospective teachers;

(10) activities designed to disseminate information about the teaching strategies acquired through the Academy with other teachers in the district's schools;

(11) organizational restructuring, including the introduction of new roles and staffing patterns in the school and university;

(12) activities intended to address the effects of chronic community violence, such as violence counseling and conflict resolution training; and

(13) other activities proposed by the applicant and approved by the Secretary.

(f) COST-SHARING.—Funds received under this section may be used to pay 100 percent of the cost of a planning grant and not more than 75 percent of the cost of operating an Academy in the first 2 years an eligible entity receives a grant under this subpart and not more than 50 percent of such cost in such third and fourth years. The remaining share shall be provided from non-Federal sources, and may be in-kind, fairly valued.

(20 U.S.C. 1102g) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 670.

SEC. 509. FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NONFEDERAL FUNDS.

A State educational agency, local educational agency, or institution of higher education may use funds received under this part only so as to supplement and, to the extent practicable, increase the level of funds that would be available from non-Federal sources for the uses of funds under this part and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

(20 U.S.C. 1102h) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 673.

SEC. 510. COORDINATION WITH OTHER PROGRAMS.

The State educational agency shall ensure that activities conducted under this part shall be consistent with the goals and objectives of any Federal or State systemic educational reform activities.

(20 U.S.C. 1102i) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 673.

SEC. 510A. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $350,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1102j) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 674.

PART B—NATIONAL TEACHER ACADEMIES

SEC. 511. PROGRAM ESTABLISHED.

(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible recipients to establish and operate National Teacher Academies.

(b) SUBJECT AREAS AND STAFF.—

(1) SUBJECT AREAS.—At least 1 but not more than 3 National Teacher Academies shall be established in each of the following subject areas commonly taught in elementary and secondary schools:

(A) English.
(B) Mathematics.
(C) Science.
(D) History.
(E) Geography.
(F) Civics and government.
(G) Foreign languages.

(2) STAFF.—Academy staff shall be selected from the most accomplished and prominent scholars in the relevant fields of study and in the methodologies which improve the skills of persons who teach in such fields of study.

(c) DURATION OF GRANT.—Each grant to establish and operate a National Teacher Academy shall be for a period of 3 years, and is renewable.

(d) COMPETITIVE GRANT AWARDS.—The Secretary shall award grants under this part on a competitive basis.

(e) CONSISTENCY WITH SYSTEMIC REFORMS.—In awarding grants under this part, the Secretary shall ensure that activities conducted under this part are consistent with the goals and objectives of other Federal or State systemic educational reform activities.

(20 U.S.C. 1103) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 674.

SEC. 512. ELIGIBLE RECIPIENTS.

(a) IN GENERAL.—For the purposes of this part, the term "eligible recipient" means—

(1) an institution of higher education;

(2) a private nonprofit educational organization of demonstrated effectiveness; or

(3) a combination of the institutions or organizations set forth in paragraphs (1) and (2) of this paragraph.

(b) EXPERTISE REQUIREMENTS.—The Secretary shall only award grants to eligible recipients that have demonstrated expertise in the—

(1) subject area of the National Teacher Academy to be established and operated; and

(2) in-service training of teachers at the national, State, and local levels.

(20 U.S.C. 1103a) Enacted July 23, 1992, P.L. 102-325, sec. 501(a), 106 Stat. 674.

SEC. 513. USE OF FUNDS.

(a) IN GENERAL.—Funds provided pursuant to this part shall be used to—

(1) provide in-service training programs for teachers and administrators, including—

(A) programs which emphasize improving the teachers' knowledge in the particular subject area of the National Teacher Academy;

(B) programs which integrate knowledge of subject matter with techniques for communicating that knowledge to students, including students who are disadvantaged, limited-English proficient, drug- or alcohol-exposed, or who have disabilities;

(C) the use of the most recent applied research findings concerning education and the classroom; and

(D) integration of materials from different disciplines into classroom instruction, especially for elementary school teachers;

(2) conduct each year at least one summer institute of at least 3 weeks duration for the State delegations described in section 515; and

(3) provide support services to the State Academies for Teachers, including—

(A) the establishment of a national network of individuals to assist in teacher education programs in State Academies for Teachers;

(B) consultation assistance in the design and implementation of in-service teacher training programs; and

(C) monthly newsletters or other methods of communicating useful information.

(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the amount of funds received under this part may be used by an eligible recipient for administrative costs.

(20 U.S.C. 1103b) Enacted July 23, 1992, P.L. 102-325, sec. 501(a), 106 Stat. 674.

SEC. 514. APPLICATION.

(a) APPLICATION.—Each eligible recipient desiring a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

(1) describe the activities, services, and programs for which assistance is sought;

(2) describe how at least 70 percent of the National Teacher Academy's time shall be devoted to basic course content relevant to the particular subject field and necessary for improving the quality of teaching in public and private elementary and secondary schools;

(3) describe how not more than 30 percent of the National Teacher Academy's time shall be devoted to methods of instruction relevant to the particular subject field;

(4) describe how the National Teacher Academy's activities will be coordinated with or administered cooperatively with institutes established by other Federal entities, such as the National Science Foundation and the National Endowment for the Humanities; and

(5) provide such additional assurances or information as the Secretary may reasonably require.

(20 U.S.C. 1103c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 675.

SEC. 515. STATE DELEGATIONS.

(a) IN GENERAL.—Each selection panel established pursuant to section 516(b) shall select a State delegation to participate in each National Teacher Academy assisted under this part.

(b) COMPOSITION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each State delegation described in subsection (a) shall, at a minimum, be composed of—

(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

(B) at least 5 teachers, of whom at least 2 shall be elementary school teachers.

(2) SPECIAL RULE.—The State delegations for the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa and the Republic of Palau (until the Compact of Free Association is ratified) shall, at a minimum, be composed of—

(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

(B) at least 3 teachers, of whom at least 1 shall be an elementary school teacher.

(3) ADDITIONAL TEACHERS.—

(A) Each State that has obtained the approval of the appropriate National Teacher Academy may send to such National Teacher Academy the number of additional teachers determined in accordance with subparagraph (B).

(B) The appropriate National Teacher Academy shall determine the number of additional teachers to attend such National Teacher Academy on the basis of the number of full-time equivalent teachers in the State compared to such number in all States.

(c) DUTIES.—Each State delegation shall—

(1) attend the appropriate subject area summer institute at the appropriate National Teacher Academy; and

(2) after participation in the National Teacher Academy assist in the development and operation of the appropriate National Teacher Academy.

(20 U.S.C. 1103d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 676.

SEC. 516. SELECTION.

(a) IN GENERAL.—Individuals participating in a National Teacher Academy shall be selected by the selection panel described in subsection (b) in accordance with the provisions of section 515.

(b) SELECTION PANEL.—

(1) ESTABLISHMENT.—Each State educational agency receiving assistance under part A of this title shall establish a 10-member selection panel to select teachers to attend the National Teacher Academies established pursuant to this part.

(2) COMPOSITION AND REPRESENTATION.—

(A) COMPOSITION.—At least 50 percent of the membership of each selection panel shall be classroom teachers, selected in consultation with teacher organizations, if any, in the State.

(B) REPRESENTATION.—The composition of each selection panel shall be broadly representative of the elementary and secondary schools and the State.

(3) FUNCTION.—Each selection panel shall—

(A) annually select the State delegations in accordance with section 515; and

(B) involve the individuals selected pursuant to subparagraph (A) in the operation of the State academies, if any, or other in-service training activities in the local educational agency in which such individuals teach.

(20 U.S.C. 1103e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 676.

SEC. 517. NATIONAL TEACHER ACADEMY EVALUATION.

The Secretary shall evaluate the system of National Teacher Academies and the effects of such academies on teachers every 2 years. The Secretary shall make available to the Congress and the public the results of such evaluation.

(20 U.S.C. 1103f) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 677.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years to carry out the provisions of this part, of which not more than $5,000,000 shall be available for each of the National Teacher Academy subject areas listed in section 511(b)(1).

(b) SPECIAL RULES.—

(1) APPROPRIATIONS LESS THAN $14,000,000.—If the amount appropriated pursuant to the authority of subsection (a) is less than $14,000,000, then not more than $2,000,000 shall be available for each National Teacher Academy subject area in the order in which such subject areas are listed in section 511(b)(1), until such funds are expended.

(2) APPROPRIATIONS EQUAL TO OR IN EXCESS OF $14,000,000.—If the amount appropriated pursuant to the authority of subsection (a) is equal to or exceeds $14,000,000, then such funds as equals or exceeds $14,000,000 shall be allocated equitably among each of the National Teacher Academy subject areas listed in section 511(b)(1).

(20 U.S.C. 1103g) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 677.

PART C—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

Subpart 1—Paul Douglas Teacher Scholarships[1]

SEC. 521. PURPOSE; DESIGNATION.

(a) PURPOSE.—It is the purpose of this subpart to make available, through grants to the States, scholarships to individuals who are outstanding secondary school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the preschool, elementary or secondary level.

(b) DESIGNATION.—Scholarships awarded under this subpart shall be referred to as the "Paul Douglas Teacher Scholarships".

(20 U.S.C. 1104) Reenacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1498; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 677.

SEC. 522. ALLOCATION AMONG STATES.

(a) ALLOCATION.—From the sums appropriated for this subpart for any fiscal year, the Secretary shall allocate to any State an amount based on the school-age population in the State compared to the school-age population in all States.

(b) USE OF CENSUS DATA.—For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the Bureau of the Census.

(20 U.S.C. 1104a) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1498; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 677.

SEC. 523. GRANT APPLICATIONS.

(a) SUBMISSION OF APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 521 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) CONTENT OF APPLICATIONS.—The Secretary shall approve an application under this subpart only if the application—

(1) describes the selection criteria and procedures to be used by the State in the selection of scholarship recipients under this subpart;

(2) designates as the State agency responsible for administering the grants received under this subpart the State agency which administers the program under subpart 4 of part A of title IV (relating to State student incentive grants), the State agency with which the Secretary has an agreement under section 428(b), or another appropriate State agency approved by the Secretary;

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[1] This program was originally enacted on Oct. 17, 1986, as subpart I of Part D of Title V of the Act (P.L. 99–498, sec. 501(a), 100 Stat. 1506).

(3) describes the outreach effort the State agency intends to use to publicize the availability of Paul Douglas Scholarships to secondary school students in the State;

(4) describes how the State will inform recipients, upon receipt of the award, of current and projected teacher shortages and surpluses within the State;

(5) provides assurances that each recipient eligible under section 525(b) of this subpart who receives a Paul Douglas Scholarship shall enter into an agreement with the State agency under which the recipient shall—

(A) within the 10-year period after completing the postsecondary education for which the Paul Douglas Teacher Corps Scholarship was awarded, teach for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit preschool, elementary, or secondary school in any State, or, on a full-time basis, children with disabilities or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a shortage area established by the Secretary pursuant to section 530A, the requirements of this subparagraph shall be reduced by one-half;

(B) provide the State agency evidence of compliance with section 526 as required by the State agency; and

(C) repay all or part of a Paul Douglas Scholarship received under section 524 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 527, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 528;

(6) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

(A) a description of the procedures required to be established under paragraph (7); and

(B) a description of the appeals procedures required to be established under paragraph (8) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

(7) provides for procedures under which a recipient of assistance received under this subpart who teaches for less than the period required under paragraph (5)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 527 and 528;

(8) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this subpart; and

(9) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds; ethnic and racial minority students; individuals with disabilities; other individuals from groups historically underrepresented in teaching; individuals who express a willingness or desire to teach in rural schools, urban schools, or

schools having less than average academic results or serving large numbers of economically disadvantaged students; or women or minorities who show interest in pursuing teaching careers in mathematics and science and who are underrepresented in such fields.

(c) Selection Criteria and Procedures.—The State educational agency, in cooperation with the State higher education agency, and pursuant to scholarship selection criteria included in section 525, shall establish criteria to select Paul Douglas Teacher Scholarship recipients. These criteria shall be intended to attract highly qualified individuals into teaching, to ensure that these students are enrolled or are accepted for enrollment in approved teacher education programs, and to meet the present and projected needs of States in addressing teacher shortages, including the demand for and supply of early childhood and elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

(d) Special Consideration.—The State educational agency, in cooperation with the State higher education agency, shall give special consideration in the selection of scholarship recipients to individuals who—

(1) intend to teach or provide related services to students with disabilities;

(2) intend to teach limited English proficient students;

(3) intend to teach preschool age children;

(4) intend to teach in schools servicing inner city or rural or geographically isolated areas (as defined by the Secretary by regulations consistent with the purposes of this section);

(5) intend to teach in curricular areas or geographic areas where there are demonstrated shortages of qualified teachers; or

(6) are from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities, and are underrepresented in the teaching profession or in the curricular areas in which they are preparing to teach.

(e) Solicitation of Views on Selection Criteria and Procedures.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of local educational agencies, private educational institutions, and other interested parties. Such views—

(1) shall be solicited by means of—

(A) written comments; and

(B) publication of proposed selection criteria and procedures in final form for implementation; and

(2) may be solicited by means of—

(A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with specific preparation); or

(B) such other methods as the State may determine to be appropriate to gather information on such needs.

(20 U.S.C. 1104b) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1498; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 678.

SEC. 524. AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE.

(a) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (c) each Paul Douglas Teacher Scholarship recipient shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a preschool, special education, elementary, or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

(c) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—No individual shall receive an award under the Paul Douglas Teacher Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. A scholarship awarded under this part shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(20 U.S.C. 1104c) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1499; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 680.

SEC. 525. SELECTION OF PAUL DOUGLAS TEACHER SCHOLARS.

(a) SELECTION BY STATEWIDE PANELS.—Paul Douglas Teacher Scholars shall be selected by a 7-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary. The statewide panel shall be representative of school administrators, teachers, including preschool and special education teachers, and parents.

(b) ELIGIBILITY FOR SELECTION; SELECTION CRITERIA AND PROCEDURES.—Selections of Paul Douglas Scholars shall be made from students who have graduated or who are graduating from secondary school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit secondary schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Paul Douglas Scholars. Such criteria may include the applicant's secondary school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

(c) WAIVERS.—For purposes of giving special consideration under section 523(d), a State may waive the criteria contained in the first sentence of subsection (b) for not more than 25 percent of individuals receiving Paul Douglas Teacher Scholarships on or after July 1, 1993.

(20 U.S.C. 1104d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 680; amended December 20, 1993, P.L. 103–208, sec. 2(j)(2), 107 Stat. 2480.

SEC. 526. SCHOLARSHIP CONDITIONS.

Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is—

(1) enrolled as a full-time student in an accredited postsecondary institution;

(2) pursuing a course of study leading to teacher certification; and

(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

(20 U.S.C. 1104e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 681.

SEC. 527. SCHOLARSHIP REPAYMENT PROVISIONS.

Recipients found by the State agency to be in noncompliance with the agreement entered into under section 523(b)(5) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV of this Act) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

(20 U.S.C. 1104f) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 681.

SEC. 528. EXCEPTIONS TO REPAYMENT PROVISIONS.

(a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 523(b)(5)(C) during any period in which the recipient—

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or education program for a single period not to exceed 27 months; or

(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

(20 U.S.C. 1104g) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 681.

SEC. 529. FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

(a) DISAPPROVAL HEARING REQUIRED.—The Secretary shall not finally disapprove any application for a State program submitted under section 523, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(b) SUSPENSION OF ELIGIBILITY.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State agency administering a State program approved under this subpart, finds—

(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

(c) COURT REVIEW.—

(1) IN GENERAL.—If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

(2) FINDINGS.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) JURISDICTION.—The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(20 U.S.C. 1104h) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 682.

SEC. 530. EVALUATION.

(a) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent evaluation of recipients of scholarship assistance under this subpart, which shall summarize and evaluate the State activities assisted under this subpart and the performance of such recipients. The evaluation shall assess the impact of the scholarship program assisted under this subpart to determine whether such program has brought into teaching a significant number of highly able individuals who otherwise would not have entered teaching.

(b) CONTENTS.—The evaluation described in subsection (a) shall include—

(1) a description of the characteristics, including the educational preparation and achievement, of recipients of scholarship assistance under this subpart compared to similar students participating in teacher training who do not receive such scholarships;

(2) the rate at which such recipients successfully complete academic training and go on to teaching careers in preschool, elementary, or secondary education, compared to such rate for similar individuals who do not receive scholarship assistance under this subpart;

(3) the extent to which it is possible to determine objectively that the receipt of scholarship assistance under this subpart was the primary reason for an individual's choice of a teaching education and career;

(4) the extent to which such recipients comply with the provisions of this subpart;

(5) the length of time such recipients remain in teaching careers, compared to similar teachers who do not receive scholarships;

(6) the barriers to the effectiveness of the program assisted under this subpart; and

(7) the cost-effectiveness of such program in improving teacher quality and quantity.

(c) EVALUATION REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1997.

(d) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 530B in fiscal years 1993 through 1997 to carry out this section.

(20 U.S.C. 1104i) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 682.

SEC. 530A. DESIGNATION OF SHORTAGE AREAS.

For the purposes of this part, the term "shortage areas" means (1) geographic areas of the State in which there is a shortage of preschool, elementary, and secondary school teachers, and (2) an area of shortage of preschool, elementary, and secondary school teachers in specific grade levels and in specific academic, instructional, subject matter, and discipline classifications. Such shortage areas shall be prescribed by the Secretary, in consultation with the chief State school officer or, in the case of nonprofit private elementary or secondary schools, with appropriate officials of nonprofit private schools in each State in accordance with this section. In carrying out the provisions of this section, the Secretary shall give special consideration to areas in which emergency certification of individuals in a State is being used to correct teacher shortages and to States which have retirement laws permitting early retirement.

(20 U.S.C. 1104j) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 683; amended December 20, 1993, P.L. 103–208, sec. 2(j)(3), 107 Stat. 2481.

SEC. 530B. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $26,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(20 U.S.C. 1104k) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 683.

Subpart 2—Christa McAuliffe Fellowship Program

SEC. 531. DECLARATION OF PURPOSE; DESIGNATION.

(a) Purpose.—It is the purpose of this subpart to establish a national fellowship program for experienced and outstanding teachers.

(b) Designation.—A recipient of a fellowship under this subpart shall be known as a "Christa McAuliffe fellow".

(20 U.S.C. 1105) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1500; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 684.

SEC. 532. PROGRAM AUTHORIZED.

(a) In General.—The Secretary is authorized to make grants, in accordance with the provisions of this subpart, to State educational agencies to enable such State educational agencies to—

(1) conduct Christa McAuliffe fellowship activities; and

(2) award fellowships to Christa McAuliffe fellows in accordance with the provisions of this subpart.

(b) Amount of Grants.—The amount awarded to each State educational agency pursuant to paragraph (1) of subsection (a) shall be an amount awarded on the basis of the school-age population in the State compared to the school-age population in all States, except that the Secretary may adjust the awards to ensure that such awards are of sufficient size to carry out the purposes of this subpart.

(c) State Activities.—Each State educational agency receiving a grant pursuant to subsection (a) shall use not more than 3 percent of such grant for administrative purposes.

(d) Use of Funds for Fellowships and Administration.—Funds appropriated for any fiscal year for fellowships to teachers under this subpart shall be used to award fellowships in accordance with the requirements of this subpart, except that not more than 1 percent of such funds shall be used by the Secretary for purposes of administering this subpart, including activities authorized under section 537(b).

(20 U.S.C. 1105a) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1501; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 684.

SEC. 533. CHRISTA MCAULIFFE FELLOWSHIPS.

(a) Award Distribution and Amount.—

(1) Award distribution.—Each State educational agency receiving a grant under this subpart shall use such funds to award Christa McAuliffe fellowships to public and private school teachers who have been employed as teachers for 8 or

more years to enable such teachers to engage in the activities described in subsection (b).

(2) AMOUNT.—Fellowships shall be in an amount equal to the annual salary the individual would earn in such individual's current place of employment for the award period.

(3) RATABLE REDUCTION.—If an individual receives a fellowship award for less than a school year, such fellowship shall be ratably reduced to equal the salary forgone.

(4) DURATION.—No Christa McAuliffe fellow may receive an award for 2 consecutive years.

(5) REQUIREMENT.—Subject to the repayment provisions of section 536, each Christa McAuliffe fellow shall be required to return to a teaching position, in their place of employment prior to receiving the fellowship award, for at least 2 years following such award. The Secretary is authorized, in extraordinary circumstances, to waive or defer all or a portion of the service requirement, or allow fellows to fulfill their service requirement by going into a teaching position in another school or school district within the State or in another State upon approval of the sending and receiving State.

(b) USE OF FELLOWSHIPS.—Each Christa McAuliffe fellowship may be used for—

(1) sabbaticals for study, research or academic improvement to—

(A)(i) improve such teacher's knowledge base in an area of expertise; or

(ii) learn a new area of expertise;

(B) increase skills and professional ability; and

(C) enhance the ability of teachers to work with special education populations, including—

(i) gifted and talented children;

(ii) limited-English proficient children;

(iii) children with disabilities; and

(iv) economically and educationally disadvantaged children;

(2)(A) consultation with or assistance to other school districts or private school systems; or

(B) development of special innovative programs;

(3) projects or partnerships that involve the business community and the schools;

(4) programs that incorporate the use and the sharing of technologies to help students learn; or

(5) expanding or replicating model programs of staff development.

(20 U.S.C. 1105b) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1501; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 684.

SEC. 534. SELECTION OF CHRISTA MCAULIFFE FELLOWS.

(a) IN GENERAL.—Christa McAuliffe fellows in each State shall be selected (in accordance with section 535) by a 7-member statewide panel appointed by the chief State school officer, or by an existing panel designated by the chief State school officer. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

(b) SPECIAL RULE.—Each State educational agency may choose to administer the program assisted under this subpart through a pre-existing panel which is experienced in administering similar programs.

(20 U.S.C. 1105c) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1502; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 685.

SEC. 535. EVALUATION OF APPLICATIONS.

(a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.—An applicant for a Christa McAuliffe fellowship shall submit a proposal for a project in accordance with section 533(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local educational agency for comment prior to submission to the statewide panel (appointed under section 534) for the State in which the project will be conducted. Each such application shall contain such information as such State educational agency may reasonably require.

(b) CONSULTATION AND CONSIDERATION.—

(1) IN GENERAL.—In evaluating proposals, the statewide panel shall consult with the local educational agency, and shall consider—

(A) evaluations during employment as a teacher;

(B) demonstrated commitment to teaching in the future; and

(C) intended activities during the award period.

(2) RECOMMENDATIONS.—The statewide panel may request recommendations from teaching peers and the applicant's principal and superintendent on the quality of the proposal, the benefit of such proposal to education, and any other criteria for awarding fellowships as are considered appropriate by such statewide panel.

(3) SELECTION.—Selection of members of the statewide panel shall be made in accordance with regulations prescribed by the Secretary.

(c) PUBLIC ANNOUNCEMENT.—Announcement of fellowship awards shall be made in a public ceremony.

(20 U.S.C. 1105d) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1502; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 685; amended December 20, 1993, P.L. 103–208, sec. 2(j)(4), 107 Stat. 2481.

SEC. 536. FELLOWSHIP REPAYMENT PROVISIONS.

Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.

(20 U.S.C. 1105e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 686.

SEC. 537. SECRETARY'S RESPONSIBILITIES.

(a) IN GENERAL.—The Secretary shall—

(1) make awards to State educational agencies having applications approved under section 538; and

(2) in cooperation with the State educational agency, conduct activities which foster communication among and bring together Christa McAuliffe fellows including activities such as written communications, meetings, or training sessions.

(b) INFORMATION DISSEMINATION.—The Secretary shall establish a clearinghouse or otherwise provide for the collection and dissemination of information on exemplary projects for improving education that were developed in accordance with section 533(b) of this part. The Secretary may utilize the National Diffusion Network in carrying out the requirements of this section.

(20 U.S.C. 1105f) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 686; amended December 20, 1993, P.L. 103–208, sec. 2(j)(5), 107 Stat. 2481.

SEC. 538. STATE APPLICATION.

(a) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

(1) provide assurances that Christa McAuliffe fellows will be released from teaching responsibilities for up to one school year (if the fellow's proposal requires such release time) without jeopardizing the rights such members would have had without participating in the program assisted under this subpart;

(2) provide assurances that the State educational agency, or its designee, in cooperation with local educational agencies, shall maintain accurate records regarding the activities of Christa McAuliffe fellows within the State to ensure that such members are meeting all conditions of the fellowships provided pursuant to this subpart, and shall notify the Secretary immediately upon a change in a Christa McAuliffe fellow's status rendering such fellow in violation of the conditions of the fellowship; and

(3) provide assurances that the State educational agency has consulted with local educational agencies in designing and developing the Christa McAuliffe Fellowship program.

(20 U.S.C. 1105g) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 686.

SEC. 539. EVALUATION.

(a) IN GENERAL.—

(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent evaluation of—

(A) Christa McAuliffe fellows; and

(B) the impact of the activities undertaken by the Christa McAuliffe fellows on teachers, teacher research, curricula, staff development, improvement of programs and improvement of student achievement.

(2) COMPETITIVE BASIS.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

(b) CONTENTS.—The evaluation shall—

(1) include information on the nature of projects developed and implemented by Christa McAuliffe fellows;

(2) assess the measurable effects of such projects on the academic performance of the students served by such projects;

(3) assess the effect of the fellowship program assisted under this subpart on the postfellowship experiences of Christa McAuliffe fellows;

(4) identify the barriers to such program's effectiveness;

(5) assess the extent to which successful projects were disseminated and adopted by other teachers and schools without further Federal assistance; and

(6) determine and explore ways to improve the cost-effectiveness of such program.

(c) EVALUATION REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1997.

(d) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 540 in fiscal years 1993 through 1997 to carry out this section.

(20 U.S.C. 1105h) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 687.

SEC. 540. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(20 U.S.C. 1105i) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 687.

Subpart 3—Teacher Corps

SEC. 541. TEACHER CORPS PROGRAM AUTHORIZED.

(a) GRANTS BY THE SECRETARY.—In any fiscal year in which the appropriations for this subpart do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants, on a competitive basis, to State educational agencies to carry out Teacher Corps activities.

(b) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this subpart equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to State educational agencies from allocations under subsection (c) to carry out Teacher Corps activities.

(c) ALLOCATION.—Except as provided in subsection (a), each State educational agency shall be eligible to receive a grant under this subpart in each fiscal year that bears the same ratio to the amount appropriated under section 548 in that fiscal year as the school-age population of the State bears to the school-age population of all States.

(d) TEACHER CORPS SCHOOL.—For the purpose of this subpart the term "Teacher Corps school" means a public elementary or secondary school identified by the State educational agency as having the highest levels of poverty and the lowest levels of student achievement based on a ranking of such elementary schools and secondary schools in the State according to the number of children living in poverty and the levels of student achievement. In carrying out the preceding sentence, the State educational agency shall identify and inform not more than 10 percent of such elementary schools and not more than 10 percent of such secondary schools in the State which have the highest levels of poverty and the lowest levels of student achievement.

(e) DESIGNATION.—

(1) SCHOLARSHIP.—A scholarship awarded under this subpart shall be referred to as a "Teacher Corps scholarship".

(2) RECIPIENT.—A recipient of a scholarship under this subpart shall be referred to as a "Teacher Corps member".

(20 U.S.C. 1106) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 687.

SEC. 542. USE OF FUNDS.

(a) SECRETARY.—The Secretary shall use funds provided pursuant to this subpart to—

(1) disseminate information nationally about the availability of scholarships under this subpart;

(2) conduct activities, with the cooperation of the State and local educational agencies, which foster communication among, and bring together, members of the Teacher Corps, including activities such as written communications, meetings, or training sessions;

(3) establish and conduct summer preservice orientation programs for Teacher Corps members about to begin teaching;

(4) ensure that Teacher Corps members recognize the challenges of teaching in a Teacher Corps school;

(5) inform Teacher Corps members of Teacher Corps schools and facilitate the hiring and placement of Teacher Corps members at Teacher Corps schools;

(6) evaluate applications from and award grants to State educational agencies to enable such agencies to award Teacher Corps scholarships in accordance with the provisions of this subpart; and

(7) collect scholarship repayments from individual Teacher Corps members, in accordance with the provisions of section 546.

(b) STATE EDUCATIONAL AGENCY.—Each State educational agency receiving a grant under this subpart shall use such grant funds to—

(1) evaluate applications for Teacher Corps membership and award scholarships to Teacher Corps members;

(2) provide technical assistance to local educational agencies establishing and operating induction programs;

(3) ensure that Teacher Corps members understand the obligation to repay the scholarships received under this subpart upon failure to comply with the conditions of the scholarship; and

(4) ensure that Teacher Corps members are fulfilling the obligation to repay scholarships received under this subpart, and provide the Secretary with the names and addresses of Teacher Corps members who have not fulfilled such obligation.

(c) SPECIAL RULE.—The Secretary may enter into contracts with or make grants to nonprofit educational organizations for—

(1) recruiting members of the Teacher Corps;

(2) establishing and conducting summer preservice training programs; and

(3) conducting activities that foster communications among and bring together members of the Teacher Corps.

(d) RESERVATIONS.—Each State receiving a grant under this subpart may reserve—

(1) 5 percent of such grant funds to provide technical assistance to local educational agencies and to pay administrative costs; and

(2) 5 percent of such grant funds to provide for induction and mentoring programs.

(e) SPECIAL RULE.—Each State educational agency receiving a grant under this subpart may enter into contracts with or award grants to nonprofit educational agencies to conduct the activities described in subsection (b).

(20 U.S.C. 1106a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 688.

SEC. 543. TEACHER CORPS.

(a) SELECTION.—The State educational agency shall select Teacher Corps members.

(b) CRITERIA.—

(1) IN GENERAL.—The State educational agency shall establish criteria to select Teacher Corps members that are intended to—

(A) attract highly qualified individuals to teaching; and

(B) meet the needs of Teacher Corps schools in addressing teacher shortages.

(2) CRITERIA.—The criteria described in paragraph (1) may include—

(A) in the case of students or recent graduates, outstanding academic records, or in other cases, contributions which may be made by individuals working in other careers; and

(B) a demonstrated commitment to teaching or professional experience in substantive fields of expertise in which the State is experiencing or expects to experience teacher shortages.

(c) SPECIAL CONSIDERATION.—The State educational agency, in selecting Teacher Corps members, shall give special consideration to individuals who—

(1) intend to teach or provide related services to students with disabilities;

(2) intend to teach limited-English proficient students;

(3) intend to teach preschool age children;

(4) are from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities;

(5) are members of populations that are underrepresented in the teaching profession or in the curricular areas in which such individuals are preparing to teach;

(6) intend to teach in the areas of science or mathematics, especially women and minorities who are underrepresented in such fields; or

(7) intend to teach on Indian reservations or in Alaska Native villages named or certified pursuant to section 3(c) of the Alaska Native Claims Settlement Act, Public Law 92–203, or in areas with high concentrations of Native Hawaiians.

(d) APPLICATION.—Each individual desiring to participate in the program assisted under this subpart shall submit an application at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(20 U.S.C. 1106b) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 689.

SEC. 544. STATE APPLICATION.

In order to receive funds under this subpart, a State educational agency, in consultation with the Governor, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe how the State educational agency shall select Teacher Corps members;

(2) identify Teacher Corps schools within the State, where Teacher Corps members shall be assigned, provided that not more than 10 percent of all public schools in the State may be designated Teacher Corps schools;

(3) provide assurances that the State educational agency, in cooperation with local educational agencies, shall assist in employment placement within such State for Teacher Corps members in Teacher Corps schools;

(4) provide assurances that the State educational agency, in cooperation with local educational agencies, shall ensure that Teacher Corps members are paid at rates comparable to other entry level teachers in the school district where the Teacher Corps member is assigned;

(5) provide assurances that the local educational agencies in which the Teacher Corps members shall be placed shall establish or expand induction programs that assist Teacher Corps members in adjusting to the new school and community where such members shall teach, including working with a mentor teacher in the school building where the Teacher Corps members are placed; and

(6) describe how the State educational agency shall monitor and report to the Secretary not less than annually on the operation of programs assisted under this subpart and on the compliance of individuals who receive Teacher Corps scholarships with the provisions of this subpart.

(20 U.S.C. 1106c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 690.

SEC. 545. SCHOLARSHIPS.

(a) ELIGIBILITY.—

(1) IN GENERAL.—An individual is eligible to receive Teacher Corps scholarships for a maximum of 3 years during enrollment in any of the following programs of study, or a combination thereof:

(A) a program of study leading to a baccalaureate degree;

(B) a 1- or 2-year postbaccalaureate program of study leading to a master's or specialist degree or a teaching certificate; or

(C) a 2-year program of study leading to an associate's degree in early childhood education or early childhood development, or a 1-year program of study leading to a child development associate credential.

(2) SPECIAL RULES.—(A) An individual pursuing a program of study described in subparagraph (B) of paragraph (1) is eligible to receive a Teacher Corps scholarship during any of the first 3 years that such individual is employed as a teacher to defray the costs of pursuing such postbaccalaureate instruction.

(B) An individual in possession of a bachelor's degree, who wishes to enter teaching from another profession, is eligible to receive a Teacher Corps scholarship to enable such individual to receive the instruction necessary to enter the teaching profession, as determined by the State in which the individual wishes to teach. Such instruction may be provided while the individual is employed as a provisional teacher.

(b) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (d), each Teacher Corps member shall receive a $5,000 scholarship for each academic year of postsecondary education, except that no individual shall receive scholarship assistance for more than 3 years of postsecondary education (including postbaccalaureate), as determined by the Secretary.

(c) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Each Teacher Corps scholarship awarded pursuant to this subpart shall be considered as student financial assistance in determining eligibility for student assistance under title IV.

(d) ASSISTANCE NOT TO EXCEED NEED.—Each Teacher Corps scholarship, when added to assistance received under title IV, if any, shall not exceed the cost of attendance, as defined in section 472, at the institution the individual is attending. If the amount of the Teacher Corps scholarship and assistance received under title IV exceeds the cost of attendance, loans received under part B, D, or E of such title shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

(e) CONTINUED ELIGIBILITY.—Each individual who receives a Teacher Corps scholarship shall continue to receive such scholarship payments only during such periods that the State educational agency finds that such individual is—

(1) enrolled as a full-time student in an accredited postsecondary institution; and

(2) maintaining satisfactory progress defined under section 484.

(20 U.S.C. 1106d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 690; amended December 20, 1993, P.L. 103–208, sec. 2(j)(6), 107 Stat. 2481.

SEC. 546. SCHOLARSHIP CONDITIONS.

(a) SCHOLARSHIP AGREEMENT.—Each individual receiving a scholarship under this subpart shall enter into a written agreement with the State educational agency which shall provide assurances that each such individual—

(1) shall pursue a course of study which meets State requirements for teacher preparation;

(2) has completed at least 2 years of undergraduate education at an institution of higher education;

(3) shall maintain satisfactory academic progress and participate in teaching-related activities while in undergraduate or post-baccalaureate programs;

(4) shall work as a teacher upon completion of such individual's education for 3 years in a Teacher Corps school, as identified by the State educational agency pursuant to section 541(d), except that Teacher Corps members may transfer to another such school within the State or in another State upon approval of the State educational agency;

(5) in carrying out the obligation described in paragraph (4), shall meet the performance requirements of—

(A) the school in which such individual teaches; and

(B) the local educational agency exercising administrative control or direction of, or performing a service function for such school;

(6) shall repay all or part of a Teacher Corps scholarship received under section 545(b) plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under subsection (b), in the event that the conditions of this subsection are not complied with, except as provided for in subsection (c);

(7) at least during the first year of employment, shall participate in an induction program which includes working with a mentor teacher selected by the local educational agency in which the Teacher Corps member is employed and who, to the extent practicable, is teaching in the same subject as the Teacher Corps member; and

(8) who is not enrolled in a program of study as set forth in section 545(a)(1)(C) shall obtain State teacher certification during the period of employment or as soon as possible as State law requires.

(b) SCHOLARSHIP REPAYMENT.—

(1) IN GENERAL.—Individuals found by the State educational agency to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay to the Secretary a pro rata amount of the scholarship awards received, plus interest at the highest rate applicable to loans under part B of title IV and, where applicable, reasonable collection fees, in accordance with the provisions of paragraph (3).

(2) EXCEPTIONS TO REPAYMENT.—An individual shall not be considered to be in violation of the agreement entered into pursuant to subsection (a) during any period in which such individual meets the exceptions to repayment provisions set forth in section 528(a)(2), 528(a)(3) or 528(b), or if the individual dies.

(3) REPAYMENT PERCENTAGES.—Each individual found by the Secretary to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay—

(A) 100 percent of the total amount of scholarships awarded under this subpart if such individual does not teach pursuant to the agreement described in subsection (a) or teaches pursuant to such agreement for less than 1 year;

(B) 67 percent of such amount if such individual teaches pursuant to such agreement for at least 1 year but less than 2 years; and

(C) 34 percent of such amount if such individual teaches pursuant to such agreement for at least 2 years but less than 3 years.

(4) INTEREST.—If a portion of scholarship is repaid under this subsection in any year, the entire amount of interest on such portion of such scholarship which accrues for such year shall be repaid.

(5) USE OF REPAYMENTS.—Any repayments of scholarships made to the Secretary pursuant to the provisions of this section shall be used by the Secretary to make additional grants in accordance with the provisions of this subpart.

(c) WAIVER.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a Teacher Corps scholarship whenever compliance by such individual is impossible or would involve extreme hardship to such individual.

(20 U.S.C. 1106e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 691.

SEC. 547. PUBLICATION AND RECRUITMENT.

(a) IN GENERAL.—The Secretary shall—

(1) publicize the availability of, and procedure to apply for, Teacher Corps scholarships, particularly among students participating in teaching-related activities through summer teaching institutes, future teacher clubs, and other teaching-related activities, at institutions of higher education nationwide, particularly in institutions of higher education with large minority enrollments, historically black colleges and universities, secondary schools nationwide (especially such schools with minority enrollment in excess of the statewide average minority enrollment), and with—

(A) individuals participating in programs assisted under subpart 4 of part A of title IV;

(B) individuals leaving the armed services, the Peace Corps, VISTA, and programs funded under the National and Community Service Act of 1990;

(C) community-based organizations working in minority education; and

(D) other agencies and entities likely to attract individuals interested in entering teaching from another career;

(2) recruit minority students to participate in the program assisted under this subpart; and

(3) recruit students with outstanding academic records to participate in such program.

(b) SPECIAL RULE.—The publications required under subsection (a) shall describe substantive fields of expertise and geographic areas experiencing teacher shortages within the Nation.

(20 U.S.C. 1106f) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 693.

SEC. 548. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this subpart.

(20 U.S.C. 1106g) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 693.

PART D—INNOVATION AND RESEARCH

Subpart 1—National Board for Professional Teaching Standards

SEC. 551. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS.

(a) DEFINITIONS.—For the purpose of this subpart—

(1) The term "Board" means the National Board for Professional Teaching Standards.

(2) The term "Committee" means the Fund for Improvement and Reform of Schools and Teaching Board established in section 3231 of the Fund for the Improvement and Reform of Schools and Teaching Act.

(3) The term "Director" means the Director of the National Science Foundation.

(b) PROGRAM AUTHORIZATION.—

(1) PROGRAM AUTHORIZED.—From sums appropriated pursuant to the authority of subsection (k) in any fiscal year, the Secretary shall, in accordance with this subpart, provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the Federal share of the costs of the activities described in subsection (d).

(2) TERMS AND CONDITIONS.—(A) No financial assistance may be made available under this subpart except upon an application as required by subsection (e).

(B) No financial assistance may be made available under this subpart unless the Secretary determines that—

(i) the Board will comply with the provisions of this subpart;

(ii) the Board will use the Federal funds only for research and development activities in accordance with subsection (d) and such teacher assessment and certification procedures will be free from racial, cultural, gender or regional bias;

(iii) the Board—

(I) will widely disseminate for review and comment announcements of specific research projects to be conducted with Federal funds, including a description of the goals and focus of the specific project involved and the specific merit review procedures and evaluation criteria to be used in the competitive award process; and

(II) will send such announcements to the Secretary, the Director, the National Research Council, and the educational research community;

(iv) the Secretary, pursuant to an arrangement with the Board, will publish the announcements described in clause (iii) in the Federal Register (or such other publication deemed appropriate by the Secretary) and in publications of general circulation designed to disseminate such announcements widely to the educational research community;

(v) the Board will, after offering any interested party an opportunity to make comment upon, and take exception to, the projects contained in the announcements described in clause (iii) for a 30-day period following publication, and after reconsidering any project upon which comment is made or to which exception is taken, issue through the Secretary a request for proposals in the Federal Register (or such other publication deemed appropriate by the Secretary) containing any revised project information;

(vi) the Board will make awards of Federal funds competitively on the basis of merit, and, in the award process, the Board will select, to the extent practicable consistent with standards of excellence—

(I) a broad range of institutions associated with educational research and development; and

(II) individuals who are broadly representative of the educational research and teaching communities with expertise in the specific area of research and development in question;

(vii) the Board will adopt audit practices customarily applied to nonprofit private organizations and will comply with subsection (g)(4);

(viii) the Board will not use Federal funds to meet the administrative and operating expenses of the Board;

(ix) the Board will submit an annual report to the Congress in accordance with the provisions of subsection (g)(1); and

(x) the Board will, upon request, disseminate to States, local educational agencies, or other public educational entities the results of any research or research project produced with funds authorized by this subpart, upon the payment of the cost of reproducing the appropriate material.

(3) AVAILABILITY OF FUNDS.—(A) Notwithstanding any other provision of law, funds appropriated to carry out this subpart shall remain available for obligation and expenditure until the end of the second fiscal year succeeding the fiscal year for which the funds were appropriated.

(B) No funds shall be made available to the Board after September 30, 1997, except as authorized by subparagraph (A) of this subsection.

(c) CONSULTATION.—The Board shall consult at least twice annually with the Committee on the design and execution of its overall research and development strategy, including procedures to assure compliance with the requirements of this subpart. The procedures shall include—

(1) an outline of specific research and development agenda and activities to be conducted with the Federal funds; and

(2) provisions to ensure compliance with the open competition and merit review requirements of this subpart for proposals and projects assisted under this subpart.

(d) AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Federal funds received under this subpart may only be used for research and development activities directly related to the development of teacher assessment and certification procedures for elementary and secondary school teachers.

(2) PRIORITIES.—(A) The Board shall give priority to research and development activities in—

(i) mathematics;

(ii) the sciences;

(iii) foreign languages; and

(iv) literacy, including the ability to read, write and analyze.

(B) The Board shall give priority to research and development activities for the certification of elementary and secondary school teachers and the need and ability of such teachers to teach special educational populations, including—

(i) limited English proficient children;

(ii) gifted and talented children;

(iii) children with disabilities; and

(iv) economically and educationally disadvantaged children.

(e) APPLICATION.—

(1) IN GENERAL.—The Board shall submit applications to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) describe the activities for which assistance is sought; and

(B) provide assurances that the non-Federal share of the cost of activities of the Board is paid from non-Federal sources, together with a description of the manner in which the Board will comply with the requirements of this subparagraph.

(2) APPROVAL.—The Secretary shall approve an application unless such application fails to comply with the provisions of this subpart.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—The Secretary shall pay to the Board the Federal share of the costs of the activities of the Board for the period for which the application is approved under subsection (e).

(2) AMOUNT OF FEDERAL SHARE.—The Federal share shall be 50 percent of the costs of the activities described in subsection (d).

(g) REPORTS AND AUDITING PROVISION.—

(1) NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS REPORT.—The Board shall submit an annual report to the appropriate committees of the Congress not later than June 30 of any fiscal year in which Federal funds are expended pursuant to this subpart. The Board shall disseminate the report for review and comment to the Department of Education, the Na-

tional Science Foundation, the National Research Council, and the education research community. The report shall—

(A) include a detailed financial statement and a report of the audit practices described in subsection (b)(2)(B)(vii);

(B) include a description of the general procedures to assure compliance with the requirements of this subpart as required in subsection (d); and

(C) provide a comprehensive and detailed description of the Board's agenda, activities, and planned activities for the preceding and succeeding fiscal years, including—

(i) the Board's overall research and development program and activities;

(ii) the specific research and development projects and activities conducted with Federal funds during the preceding fiscal year, including—

(I) a description of the goals and methodology of the project;

(II) a description and assessment of the findings (or status and preliminary findings if the project is not yet completed);

(III) a description of the competitive bidding process, the merit review procedures, and the evaluation criteria used to award project funds; and

(IV) a description of the Board's plans for dissemination of the findings described in clause (ii);

(iii) the specific research and development projects and activities planned to be conducted with Federal funds during the succeeding fiscal year, including the goals and methodologies to be used; and

(iv) a listing of available publications of the Board, including publications related to policies, standards and general information, research reports, and commissioned papers of the Board.

(2) FIRST ANNUAL REPORT.—The first annual report required by this subsection shall include a description of the Board's research and development agenda for the succeeding 5-year period. Such first report shall include to the maximum extent practicable, a description of specific research and development projects and activities, and the goals and methodologies of such projects and activities.

(3) ADDITIONAL REPORTS.—The Secretary, the Director, and the National Research Council shall report to the appropriate committees of the Congress on the compliance of the Board with the requirements of this part not later than 30 days after the Board submits its annual report pursuant to paragraph (1).

(4) AUDITING PROVISION.—The Comptroller General of the United States, and any of the Comptroller's authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the Board, and to any recipient of the Board, that is pertinent to the sums received and disbursed under this subpart.

(h) EVALUATION.—

(1) In general.—After September 30, 1995, the Secretary shall reserve not more than 2 percent of the amount appropriated pursuant to the authority of subsection (k) to provide for an independent, ongoing evaluation of the research program of teacher assessments carried out by the Board and the fairness and the accuracy of the data such evaluations produce. The evaluation shall include an analysis of the impact of teacher assessments on minority teachers. The findings of the evaluation shall be submitted to the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives.

(2) Special rule.—The Secretary shall enter into a contract for the performance of the evaluation described in paragraph (1) with a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education).

(i) Construction.—Nothing in this subpart shall be construed to—

(1) establish a preferred national curriculum or preferred teaching methodology for elementary and secondary school instruction;

(2) infringe upon the rights and responsibilities of the States to license elementary and secondary school teachers;

(3) infringe upon the practice or accreditation of home school or private school teaching;

(4) provide an individual certified by the Board with a right of action against a State, local educational agency, or other public educational entity for any decisions related to hiring, promotion, retention or dismissal;

(5) authorize the Board to—

(A) study, create, or promulgate separate standards applicable to home school or private school teachers;

(B) take any action to require home school, private school, or public school teachers to participate in any program offered by the Board; or

(C) take any action that infringes in any manner on the right of parents to direct the education of their children; or

(6) authorize the Secretary to exercise supervision or control over the research program, standards, assessment practices, administration, or staffing policies of the Board.

(j) Voluntary Participation.—Notwithstanding any other provision of this subpart, voluntary participation in certification assessments by the Board shall be open to home school, private school, and public school teachers.

(k) Authorization of Appropriations.—There are authorized to be appropriated $20,000,000 for the period beginning October 1, 1992, and ending September 30, 1997, to carry out the provisions of this subpart.

(20 U.S.C. 1107) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 693.

Subpart 2[1]—Alternative Routes to Teacher Certification and Licensure

SEC. 552. SHORT TITLE.

This subpart may be cited as the "Alternative Routes to Teacher Certification and Licensure Act of 1992".

(20 U.S.C. 1108) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 698.

SEC. 553. FINDINGS.

The Congress finds that—

(1) effective elementary and secondary schools require competent teachers and strong leadership;

(2) school systems would benefit greatly by increasing the pool of qualified individuals from which to recruit teachers;

(3) many talented professionals who have demonstrated a high level of subject area competence outside the education profession may wish to pursue careers in education, but have not fulfilled the requirements to be certified or licensed as teachers;

(4) alternative routes can enable qualified individuals to fulfill State certification or licensure requirements and would allow school systems to utilize the expertise of such professionals and improve the pool of qualified individuals available to local educational agencies as teachers; and

(5) alternative routes to certification or licensure requirements that do not exclude qualified individuals from teaching solely because such individuals do not meet traditional certification or licensure requirements would allow school systems to take advantage of these professionals and improve the supply of well-qualified teachers.

(20 U.S.C. 1108a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 698.

SEC. 554. PURPOSE.

It is the purpose of this subpart to improve the supply of well-qualified elementary and secondary school teachers by encouraging and assisting States to develop and implement programs for alternative routes to teacher certification or licensure requirements. Such programs shall place special emphasis on the participation of individuals who are members of minority groups.

(20 U.S.C. 1108b) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 698.

SEC. 555. ALLOTMENTS.

(a) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—From the amount appropriated to carry out this subpart, the Secretary shall allot to each State the lesser of either the amount the State applies for under section 556 or an amount that is proportional to the State's share of the total population of children ages five through seventeen in all the States (based on the most recent data available that is satisfactory to the Secretary).

(2) REALLOCATION.—If a State does not apply for its allotment, or the full amount of its allotment, under the preceding

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[1] Effective July 1, 1995, this subpart is repealed. See section 501(b) of P.L. 102–325, 106 Stat. 719.

paragraph, the Secretary may reallocate the excess funds to one or more other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds.

(b) SPECIAL RULE.—Notwithstanding section 412(b) of the General Education Provisions Act, funds awarded under this subpart shall remain available for obligation by a recipient for a period of two calendar years from the date of the grant.

(20 U.S.C. 1108c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 699.

SEC. 556. STATE APPLICATIONS.

(a) IN GENERAL.—Any State desiring to receive a grant under this subpart shall, through the State educational agency, submit an application at such time, in such manner, and containing such information, as the Secretary may reasonably require.

(b) REQUIREMENTS.—Each application shall—

(1) describe the programs, projects, and activities to be undertaken; and

(2) contain such assurances as the Secretary considers necessary, including assurances that—

(A) assistance provided to the State educational agency under this subpart will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of programs to provide alternative routes to fulfilling teacher certification or licensure requirements;

(B) the State educational agency has, in developing and designing the application, consulted with—

(i) representatives of local educational agencies, including superintendents and school board members (including representatives of their professional organizations where applicable);

(ii) elementary and secondary school teachers, including representatives of their professional organizations;

(iii) institutions of higher education with schools or departments of education;

(iv) parents; and

(v) other interested organizations and individuals; and

(C) the State educational agency will submit to the Secretary, at such time as the Secretary may specify, a final report describing the activities carried out with assistance provided under this subpart and the results achieved.

(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this subpart.

(20 U.S.C. 1108d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 699.

SEC. 557. USE OF FUNDS.

(a) USE OF FUNDS.—

(1) IN GENERAL.—A State educational agency shall use assistance provided under this subpart to support programs, projects, or activities that develop and implement new, or ex-

pand and improve existing, programs that enable individuals to move to a career in education from another occupation through an alternative route to teacher certification or licensure.

(2) TYPES OF ASSISTANCE.—A State educational agency may carry out such programs, projects, or activities directly, through contracts, or through grants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies.

(b) USES.—Funds received under this subpart may be used for—

(1) the design, development, implementation, and evaluation of programs that enable qualified professionals who have demonstrated a high level of subject area competence outside the education profession and are interested in entering the education profession to fulfill State certification or licensure requirements;

(2) the establishment of administrative structures necessary for the development and implementation of programs to provide alternative routes to fulfilling State requirements for certification or licensure;

(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers entering the school system through alternative routes to teacher certification or licensure;

(4) the development of recruitment strategies;

(5) the development of reciprocity agreements between or among States for the certification or licensure of teachers; and

(6) other appropriate programs, projects, and activities designed to meet the objectives of this subpart.

(20 U.S.C. 1111f) Enacted October 17, 1986, P.L. 99–498, sec. 501(a), 100 Stat. 1509; amended June 3, 1987, P.L. 100–50, sec. 17(c), 101 Stat. 359; amended July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 700.

(20 U.S.C. 1108e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 700.

SEC. 558. DEFINITION.

For purposes of this subpart, the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99–658).

(20 U.S.C. 1108f) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 700.

SEC. 559. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subpart $15,000,000 for fiscal year 1993.

(20 U.S.C. 1108g) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 700.

Subpart 3—Class Size Demonstration Grant

SEC. 561. PURPOSE.

It is the purpose of this subpart to provide grants to local educational agencies to enable such agencies to determine the benefits in various school settings of reducing class size on the educational performance of students and on classroom management and organization.

(20 U.S.C. 1109) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 700.

SEC. 562. PROGRAM AUTHORIZED.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall carry out a program of awarding grants, in accordance with the provisions of this subpart, to local educational agencies to pay the Federal share of the costs of conducting demonstration projects that demonstrate methods of reducing class size which may provide information meaningful to other State and local educational agencies.

(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

(b) RESERVATION.—The Secretary may reserve not more than 5 percent of the amount appropriated pursuant to the authority of section 565A in each fiscal year to carry out the evaluation activities described in section 565.

(c) SELECTION CRITERIA.—The Secretary shall make grants to local educational agencies on the basis of—

(1) the need and the ability of a local educational agency to reduce the class size of an elementary or secondary school served by such agency;

(2) the ability of a local educational agency to furnish the non-Federal share of the costs of the demonstration project for which assistance is sought;

(3) the ability of a local educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this subpart; and

(4) the degree to which a local educational agency demonstrates in the application submitted pursuant to section 564 consultation in program implementation and design with parents, teachers, school administrators, and local teacher organizations, where applicable.

(d) PRIORITY.—In awarding grants under this subpart, the Secretary shall give priority to demonstration projects that involve at-risk students, including educationally or economically disadvantaged students, students with disabilities, limited-English proficient students, and young students.

(e) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency shall use the Federal funds received under this subpart to supplement and not supplant other Federal, State and local funds available to the local educational agency.

(20 U.S.C. 1109a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 700.

SEC. 563. PROGRAM REQUIREMENTS.

(a) ANNUAL COMPETITION.—In each fiscal year, the Secretary shall announce the factors to be examined in a demonstration project assisted under this subpart. Such factors may include—

(1) the magnitude of the reduction in class size to be achieved;

(2) the level of education and the subject areas in which the demonstration projects shall occur;

(3) the form of the instructional strategy to be demonstrated; and

(4) the duration of the project.

(b) RANDOM TECHNIQUES AND APPROPRIATE COMPARISON GROUPS.—Demonstration projects assisted under this subpart shall be designed to utilize randomized techniques or appropriate comparison groups, where feasible.

(20 U.S.C. 1109b) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 701.

SEC. 564. APPLICATION.

(a) IN GENERAL.—In order to receive a grant under this subpart a local educational agency shall submit an application to the Secretary that is responsive to the announcement described in section 563(a), at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) DURATION.—The Secretary shall encourage local educational agencies to submit applications under this subpart for a period of 3 years.

(c) CONTENTS.—Each application submitted pursuant to subsection (a) shall include—

(1) a description of the objectives to be attained with the financial assistance made available under this subpart and the manner in which such financial assistance shall be used to reduce class size;

(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

(4) an assurance that the local educational agency shall pay from non-Federal sources the non-Federal share of the costs of the demonstration project for which assistance is sought; and

(5) such additional assurances as the Secretary may reasonably require.

(d) SUFFICIENT SIZE AND SCOPE REQUIRED.—The Secretary shall only award grants under this subpart to applicants having applications which describe projects of sufficient size and scope to contribute to carrying out the purposes of this subpart.

(20 U.S.C. 1109c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 701.

SEC. 565. EVALUATION AND DISSEMINATION.

(a) NATIONAL EVALUATION.—The Secretary shall conduct a national evaluation of the demonstration projects assisted under this subpart to determine the costs incurred in achieving the reduction in class size and the effects of the reductions on outcomes, such as student performance in the affected subjects or grades, attendance, discipline, classroom organization, management, and teacher satisfaction and retention.

(b) COOPERATION.—Each local educational agency receiving a grant under this subpart shall cooperate in the national evaluation described in subsection (a) and shall provide such information to the Secretary as the Secretary may reasonably require.

(c) REPORTS.—The Secretary shall report to the Congress on the results of the evaluation conducted pursuant to subsection (a).

(d) DISSEMINATION.—The Secretary shall widely disseminate information about the results of the class size demonstration projects assisted under this subpart.

(20 U.S.C. 1109d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 702.

SEC. 565A. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $3,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(20 U.S.C. 1109e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 702.

Subpart 4—Middle School Teaching Demonstration Programs

SEC. 566. STATEMENT OF PURPOSE.

It is the purpose of this subpart to provide financial assistance to institutions of higher education which offer teacher training or retraining programs to develop model programs with a specialized focus on teaching grades 6 through 9.

(20 U.S.C. 1110) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 703.

SEC. 567. DEFINITIONS.

As used in this subpart:

(1) The term "developmentally appropriate" means a program that is appropriate for a child's age and all areas of an individual child's development, including educational, physical, emotional, social, cognitive, and communication.

(2) The term "middle school" means a school which enrolls students in at least two of the grades 6, 7, 8, and 9.

(20 U.S.C. 1110a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 703.

SEC. 568. PROGRAM AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to make grants, on a competitive basis, to institutions of higher education to develop model programs with a specialized focus on teaching grades 6 through 9.

(b) SPECIAL RULE.—

(1) EQUITABLE DISTRIBUTION.—The Secretary shall ensure an equitable geographic distribution of grants awarded under this subpart.

(2) CONSIDERATION.—The Secretary shall take into consideration equitable levels of funding for urban and rural areas in awarding grants under this subpart.

(c) GRANT PERIOD.—Grants under this subpart may be awarded for a period not to exceed 3 years.

(d) FUNDING LIMITATION.—Grants awarded under this subpart may not exceed $250,000 in the first year of funding.

(20 U.S.C. 1110b) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 703.

SEC. 569. APPLICATION.

(a) IN GENERAL.—Each institution of higher education desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall demonstrate that—

(1) the applicant will establish and maintain a program of teacher training or retraining designed to offer specialized preparation for individuals teaching grades 6 through 9;

(2) the applicant has designed a program of teacher training or retraining which includes—

(A) a study of adolescent development (including cognitive, social, and emotional) with particular emphasis on early adolescent development;

(B) a study of the influence of institutions such as schools, families, and peer groups in the socialization of adolescents;

(C) information concerning the organization of schools for students in grades 6 through 9, with particular emphasis on developmentally appropriate school and classroom organization and practices;

(D) training in at least 2 subject areas and related instructional strategies;

(E) direct experience through internships in middle grade schools under the guidance of teachers who demonstrate exemplary classroom practices;

(F) strategies for the prevention and detection of high risk behavior, particularly drug and alcohol abuse, and for the enhancement of self esteem among adolescents;

(G) a study of effective methods and models of presenting substance abuse information and education to adolescent students; and

(H) methods of encouraging parental and community involvement with middle schools; and

(3) the program will be designed and operated with the active participation of classroom teachers and will include an inservice training component.

(20 U.S.C. 1110c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 703.

SEC. 570. REPORTS AND INFORMATION DISSEMINATION.

Each institution of higher education receiving a grant under this subpart shall submit to the Secretary such reports and other information regarding programs conducted under this subpart as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education, State educational agencies, and local educational agencies.

(20 U.S.C. 1110d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 704.

SEC. 570A. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this subpart.

(20 U.S.C. 1110e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 704.

PART E—MINORITY TEACHER RECRUITMENT

Subpart 1—New Teaching Careers

SEC. 571. STATEMENT OF PURPOSE.

It is the purpose of this subpart to establish and operate new career programs to attract minority candidates, who are in school support or paraprofessional positions in shortage area schools serving disadvantaged students, to careers as certified or licensed teachers.

(20 U.S.C. 1111) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 704.

SEC. 572. STATE GRANT AUTHORITY; APPLICATIONS.

(a) AUTHORITY.—

(1) GRANTS BY SECRETARY.—In any fiscal year in which appropriations for this subpart do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with this subpart, to award grants, on a competitive basis, to States to enable States to pay the Federal share of supporting programs that carry out the purpose of this subpart.

(2) STATE GRANT PROGRAM.—In any fiscal year in which appropriations for this subpart equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States in accordance with allocations under subsection (b) to enable States to pay the Federal share of supporting programs that carry out the purposes of this subpart.

(b) ALLOCATION AMONG STATES.—Except as provided in subsection (a)(1), each State shall be eligible to receive a grant under this subpart in each fiscal year that bears as nearly as possible the same ratio to the amount appropriated under section 576C as the allocation of funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 in that State bears to the total allocation of such funds in all States, except that no State grant shall be less than $500,000 in any fiscal year.

(c) DURATION OF GRANT.—Each grant awarded under this subpart shall be awarded for a term of 5 years, subject to the availability of appropriations.

(d) FEDERAL SHARE.—The Federal share of each grant awarded under this subpart shall be 75 percent in the first year in which the State receives a grant, 65 percent in the second such year, 55 percent in the third such year, 45 percent in the fourth such year, and 35 percent in the fifth such year.

(e) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this subpart may be in cash or in kind fairly evaluated, including planned equipment or services.

(f) SUBMISSION OF STATE APPLICATIONS.—In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall—

(1) contain assurances that the State will award grants on a competitive basis to eligible recipients submitting applications described in section 574;

(2) set forth a program of activities for carrying out the purposes set forth in this subpart in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

(20 U.S.C. 1111a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 704.

SEC. 573. AGREEMENTS.

Each State receiving a grant under this subpart shall enter into an agreement with the Secretary. Each such agreement shall include provisions designed to ensure that—

(1) the State educational agency, the State higher education agency, or the State agency which administers subpart 4 of part A of title IV, relating to State student incentive grants, will administer the program authorized by this subpart in the State;

(2) the State educational agency or higher education agency will use not more than 5 percent of the grant it receives for administrative expenses;

(3) the State educational agency or higher education agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary; and

(4) the State will establish a system for the evaluation of the programs assisted under this subpart.

(20 U.S.C. 1111b) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 705.

SEC. 574. APPLICATION.

(a) IN GENERAL.—A grant under this subpart may be made only to an eligible recipient which submits an application to the State containing or accompanied by such information as the State may reasonably require.

(b) CONTENTS OF APPLICATION.—Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) set forth the number of expected participants in each program assisted under this subpart;

(3) demonstrate steps on a career ladder leading to the position of fully credentialed teacher, ranging from nonskilled entry positions, extending through intermediate subprofessional functions, and terminating in full professional status as a certified teacher duly recognized by the appropriate State agency;

(4) contain assurances that advancement within such career ladders would be based on merit, but that the opportunity for professional growth is available to all;

(5) demonstrate a plan for employing permanently individuals who have participated in the program at their new level of training, including individuals who terminate the program at a level below that of fully credentialed teacher;

(6) demonstrate a plan for bringing a sizable portion of the educational program and coursework to the place of the participant's employment;

(7) demonstrate a plan for providing academic credit for inservice training and other relevant experience as well as formal academic coursework;

(8) provide for participation of individuals who have attained various levels of education, including individuals who have not completed high school, with special consideration for such participation given to individuals already serving within the school system;

(9) provide assurances that the program assisted under this subpart will be available to individuals with disabilities; and

(10) contain such other assurances as the State may reasonably require.

(20 U.S.C. 1111c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 705.

SEC. 575. REQUIREMENTS.

(a) GENERAL REQUIREMENTS.—An eligible recipient of a grant under this subpart shall require that any paraprofessional who receives student financial assistance under this subpart and who becomes a fully certified or licensed teacher enter into an agreement under which the paraprofessional shall—

(1) within the 10-year period after completing the postsecondary education for which the assistance was provided, act as an educational professional or a paraprofessional in the local educational agency that is a consortium member of the eligible recipient providing such assistance, or, if no teaching position is offered by such local educational agency, in a shortage area school approved by the State for a period of not less than one year for each full-time academic year or equivalent for which the assistance was received;

(2) provide to the State evidence of compliance with paragraph (1); and

(3) repay that portion of the student financial assistance received under this subpart which was provided for tuition, plus interest and reasonable collection costs (if applicable), in the event that the teacher fails to comply with the conditions of paragraph (1), in accordance with the regulations prescribed by the Secretary under section 527, except that the provisions of this paragraph shall not apply to anyone for whom no teaching position was made available by the local educational agency or State, or in the circumstances provided in section 528.

(b) AMOUNT OF FINANCIAL ASSISTANCE.—The amount of financial assistance awarded under this subpart shall be reduced by the amount that the financial assistance exceeds the student's cost of attendance, as defined in section 472. Financial assistance awarded under this subpart shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(20 U.S.C. 1111d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 706.

SEC. 576. SPECIAL CONSIDERATION.

In awarding grants under this subpart, the State shall give special consideration to—

(1) programs designed to identify, recruit, and certify—

(A) speakers of non-English languages who have been trained as teachers in their home country; or

(B) individuals already employed in a local educational agency; and

(2) eligible recipients located in shortage areas as defined in section 576B.

(20 U.S.C. 1111e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 707.

SEC. 576A. USE OF FUNDS.

Funds provided to eligible recipients pursuant to this subpart may be used for—

(1) tuition or part or all of the costs of attendance (as determined under section 472) for participants in programs assisted under this subpart;

(2) the release time of such participants;

(3) instructional and supportive services for such participants in such programs; and

(4) stipends for child care to such participants whose academic coursework takes place outside the normal workday.

(20 U.S.C. 1111f) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 707.

SEC. 576B. DEFINITIONS.

For the purpose of this subpart—

(1) the term "certified or licensed teacher" means an individual who possesses a document certifying that the individual has met the requirements of a State for employment as a teacher in the public schools of that State (including individuals who have been certified as specialists in preschool and early childhood education);

(2) the term "eligible recipient" means a consortium of—

(A) an institution of higher education, and

(B) one or more local educational agencies.

(3) the term "paraprofessional" means an individual with at least a high school diploma or recognized equivalent who is employed in a preschool or elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education, and migrant education;

(4) the term "school support" means an individual who is employed by a local educational agency; and

(5) the term "shortage area" means (A) an area the Secretary has designated as an area with a shortage of elementary and secondary school teachers, or (B) a shortage in a designated subject area as described in section 530A of this Act.

(20 U.S.C. 1111g) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 707.

SEC. 576C. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(20 U.S.C. 1111h) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 708.

Subpart 2—Programs to Encourage Minority Students to Become Teachers

SEC. 577. STATEMENT OF PURPOSE.

It is the purpose of the program conducted pursuant to section 578 to carry out activities designed to—

(1) improve recruitment and training opportunities in education for minority individuals, including language minority individuals;

(2) increase the number of minority teachers, including language minority teachers, in elementary and secondary schools; and

(3) to identify and encourage minority students in the 7th through the 12th grades to aspire to, and to prepare for, careers in elementary and secondary school teaching.

(20 U.S.C. 1112) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 708.

SEC. 578. PARTNERSHIP GRANTS AUTHORIZED.

(a) AUTHORITY.—The Secretary is authorized to make grants to pay the Federal share of carrying out the purposes of this subpart to a partnership between—

(1) one or more institutions of higher education which have a demonstrated record and special expertise in carrying out the purposes of this subpart; and

(2)(A) one or more local educational agencies;

(B) a State educational agency or a State higher education agency; or

(C) community-based organizations.

(b) FEDERAL SHARE.—The Federal share of each grant awarded under this section shall be 50 percent.

(c) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this section may be in cash or kind fairly evaluated, including planned equipment or services.

(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant awarded under this section may be used for administrative expenses.

(20 U.S.C. 1112a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 708.

SEC. 579. PARTNERSHIP AGREEMENT.

(a) IN GENERAL.—In order to be eligible for a grant under section 578, a partnership shall enter into a written partnership agreement. All partners shall sign the agreement.

(b) CONTENTS OF AGREEMENT.—The agreement shall include—

(1) a listing of all participants in the partnership;

(2) a description of the responsibilities of each participant in the partnership; and

(3) a listing of the resources, if any, to be contributed to the partnership.

(c) SELECTION CRITERIA.—In making grants under section 578, the Secretary shall approve applications which contain provision for projects designed to carry out the purposes described in section 577 and which—

(1) identify students who indicate an interest in entering the teaching profession, and provide such individuals with support programs such as—

(A) scholarship funds to meet expenses;

(B) remedial and tutoring programs;

(C) counseling and support services;

(D) academic advice and guidance in course selection to prepare for teacher certification;

(E) information and advice regarding eligibility for membership in the Teacher Corps established under subpart 3 of part C of this title, and other financial assistance programs;

(F) teaching mentors;

(G) motivational activities;

(H) teaching skill development;

(I) future teacher clubs; and

(J) instruction in test-taking skills.

(2) establish or strengthen teacher training programs;

(3) establish or enhance early identification/articulation partnership programs with secondary schools and community colleges;

(4) establish partnerships with graduate schools of education to foster and facilitate the movement of minority students into post-graduate studies;

(5) establish programs and activities which foster and facilitate the movement of students interested in pursuing teaching careers from 2-year institutions to 4-year institutions, focusing particular attention on facilitating the transfer of academic credit; and

(6) improve existing assessment practices that determine an individual's qualifications to become a teacher.

(20 U.S.C. 1112b) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 708.

SEC. 580. APPLICATION FOR TEACHER PARTNERSHIPS PROGRAM.

(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under section 578 shall submit an application to the Secretary.

(b) CONTENTS OF APPLICATION.—The application shall include—

(1) the written and signed partnership agreement required by section 579;

(2) set forth the individuals to be served;

(3) a listing of the elementary, if applicable, and secondary schools of the local educational agency to be involved in the program assisted under this subpart;

(4) a description of the services and activities to be offered under the program assisted under this subpart; and

(5) such additional information and assurances as the Secretary may reasonably require.

(c) STATE EDUCATIONAL AGENCY REVIEW.—Each application from a partnership for a grant under section 578 shall be forwarded to the appropriate State educational agency (unless the State educational agency is a member of the partnership) for review and comment if the State educational agency requests the opportunity for such a review. The State educational agency must complete a review of such application and comment to the Secretary within 30 calendar days of receipt. Failure of the State educational agency to submit comments to the Secretary shall not prejudice such application.

(20 U.S.C. 1112c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 709.

SEC. 580A. TEACHER PLACEMENT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education that have schools or departments of education to pay the Federal share of developing and carrying out programs and activities designed to—

(A) prepare and train students to become elementary and secondary school teachers; and

(B) to the extent practicable, place the students as teachers in urban and rural public or private nonprofit elementary or secondary schools where at least 50 percent of students enrolled are from minority groups.

(2) FEDERAL SHARE.—The Federal share of each grant awarded under this section shall be 50 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this section may be in cash or in kind fairly evaluated, including planned equipment or services.

(b) USE OF FUNDS.—Grants under this section may be used for the costs of developing and carrying out the program of teacher preparation, training, and placement described in subsection (a).

(c) APPLICATIONS.—No grant may be made under this section unless an application to the Secretary is made by the institution of higher education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(d) SPECIAL CONSIDERATION.—The Secretary is authorized, in making grants under this section, to give special consideration to historically Black colleges and universities and to institutions which—

(1) are eligible to receive funds under part C of title X; and

(2) have enrollments of at least 50 percent minority students in their teacher education programs.

(e) PERFORMANCE INCENTIVE.—In any fiscal year beginning after September 30, 1993, the Secretary may, based upon evaluation and monitoring of programs assisted under this section, increase the Federal share for a recipient of funds under this section for the succeeding fiscal year to 75 percent, if the Secretary determines that there is demonstrated success in the operation of the program assisted by such recipient.

(f) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant awarded under this section may be used for administrative expenses.

(20 U.S.C. 1112d) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 710.

SEC. 580B. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years, of which not more than ⅔ shall be available to carry out programs under section 578 and not less than ⅓ shall be available to carry out programs under section 580A.

(20 U.S.C. 1112e) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 710; amended December 20, 1993, P.L. 103–208, sec. 2(j)(7), 107 Stat. 2481.

PART F—PROGRAMS FOR SPECIAL POPULATIONS

Subpart 1—National Mini Corps Program

SEC. 581. NATIONAL MINI CORPS.

(a) Program Authorized.—The Secretary is authorized to make grants to institutions of higher education to enable such institutions to establish partnerships with local educational agencies to carry out the purposes of the National Mini Corps Program.

(b) Definitions.—As used in this subpart—

(1) the term "children" means children who are eligible to receive services under part A or subpart 1 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

(2) the term "individual" (A) has the same meaning as the terms "first generation college student" and "low income individual" as defined under section 402A(g) of this Act, or (B) means a student enrolled in an institution of higher education who is the child of current or former migratory workers (including migratory agricultural dairy workers) or of migratory fishermen.

(c) Purpose of the Program.—It is the purpose of the National Mini Corps Program to—

(1) provide individuals who are enrolled or plan to enroll in an institution of higher education with advisement, training, and instructional services, and to encourage individuals to be role models for children;

(2) provide outreach and recruitment services to encourage individuals to enroll in teacher education programs;

(3) provide support and instructional services to individuals who are enrolled in an institution of higher education to enable such individuals to provide direct instructional services, which are coordinated with the overall educational goals of the State or local educational agency, to children eligible to receive services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 during the regular school year or summer term. Such support and services may include—

(A) lessons and provision of materials that meet the academic needs of children in the classroom;

(B) supplemental instruction to reinforce the basic skills and concepts provided through instruction by the teacher;

(C) instruction in other subject areas;

(D) academic assistance, home visits, parental involvement, parent-student advisement services, and family advocacy; and

(E) stipends for individuals who participate in the program assisted under this subpart for at least 10 but not more than 15 hours per week;

(4) designate college coordinators at participating institutions of higher education to train, supervise, and assign individuals to carry out the activities of this subpart in cooperation with State and local educational agencies in which children with special needs have been identified; and

(5) support other appropriate activities related to encouraging individuals to enter the teaching profession and to provide a link to the community.

(d) APPLICATION REQUIRED.—Institutions of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary which shall include—

(1) a written partnership agreement with the State and local educational agency in which the children have been identified for participation in the activities under this subpart;

(2) a description of the strategies that will be employed to engage the community generally in the activities and programs supported by the programs under this subpart;

(3) a description of the process by which individuals will be recruited and selected to participate in the programs assisted under this subpart;

(4) a description of the programs and activities which will be supported by the programs under this subpart; and

(5) such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed Mini Corps Program, and the capability of the applicant to implement the proposed Mini Corps Program.

(e) AWARDING OF GRANTS.—In awarding grants under this subpart, the Secretary shall ensure, to the extent practicable, that—

(1) grants are equitably distributed on a geographic basis throughout the Nation and among a variety of communities;

(2) the amount of the grant awarded is proportionate to the number of individuals and children who, on the basis of the grant application, are expected to be involved in the programs and activities supported by the National Mini Corps; and

(3) not less than 30 percent of the grants awarded under this subpart are awarded for programs serving migrant students and children.

(f) USES OF FUNDS.—Funds provided under this part may be used for planning, implementing and operating a National Mini Corps Program, except that not more than 5 percent of any grant received under this subpart may be used for administrative costs.

(g) EVALUATION.—The Secretary shall, by January 1, 1996, evaluate the demonstration program assisted under this part and report the results of such evaluation to the appropriate committees of the Congress.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1113) Enacted July 23, 1992, P.L. 102-325, sec. 501(a), 106 Stat. 711; amended December 20, 1993, P.L. 103-208, sec. 2(j)(8), 107 Stat. 2481.

Subpart 2—Foreign Language Instruction

SEC. 586. DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES.

(a) PROGRAM AUTHORITY.—The Secretary is authorized to make demonstration grants to eligible consortia to enable such eligible consortia to—

(1) operate critical language and area studies programs;

(2) develop and acquire educational equipment and materials; and

(3) develop teacher training programs, texts, curriculum, and other activities designed to improve and expand the instruction of foreign languages at elementary and secondary schools across the Nation.

(b) GRANT LIMITATION.—The Secretary shall not award a grant which exceeds $2,000,000 to an eligible consortium under this section in any fiscal year, but shall award grants of sufficient size, scope and quality for a program of comprehensive instruction of foreign languages.

(c) SPECIAL RULES.—

(1) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible consortia with demonstrated, proven effectiveness in the field of critical language and area studies and which have been in existence for at least 1 year prior to applying for a grant under this section.

(2) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall take into consideration providing an equitable geographic distribution of such grants among the regions of the United States.

(3) PROGRAM REQUIREMENT.—Each eligible consortium receiving a grant under this section shall include in the activities assisted pursuant to such grant, a study abroad or cultural exchange program.

(d) ELIGIBLE CONSORTIUM.—

(1) IN GENERAL.—For the purposes of this section, the term "eligible consortium" means a cooperative effort between entities in one or more States that must include at least 4 schools, of which—

(A) one shall be an institution of higher education;

(B) one shall be a secondary school with experience in teaching critical languages;

(C) one shall be a secondary school with experience in teaching critical languages and in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

(D) one shall be a secondary school in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(2) NONPROFIT ORGANIZATIONS.—Each eligible consortium described in paragraph (1) may include a nonprofit organization to provide services not otherwise available from the entities described in paragraph (1).

(e) ADMINISTRATION.—Each eligible consortium receiving a grant under this section may use not more than 10 percent of such grant for administrative expenses.

(f) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each eligible consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(2) SPECIAL RULE.—The State educational agency or State higher education agency responsible for the supervision of any one school participating in an eligible consortium may submit the application described in paragraph (1) on behalf of such eligible consortium.

(g) DEFINITIONS.—For purposes of this section, the term "critical language" means each of the languages contained in the list of critical foreign languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

(20 U.S.C. 1114) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 712.

SEC. 587. DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to provide one or more grants on a competitive basis to a State or local educational agency, an institution of higher education, a private nonprofit foreign language organization, a nonprofit education association, or a consortium thereof, to enable such entity to act as a resource center for—

(1) coordinating the development of and disseminating foreign language and culture instructional material, including children's literature in foreign languages, videotapes and computer software, and teacher's instructional kits relating to international study; and

(2) encouraging the expanded use of technology in teaching foreign languages and culture at the elementary school level and, when the needs of elementary schools have been met, at the secondary school level, with a particular emphasis on expanding the use of technology in teaching foreign languages and culture at elementary and secondary schools that have proportionally fewer resources available for teaching foreign languages and cultures, including schools in urban and rural areas.

(b) COORDINATION.—In developing materials and technologies under this section, the Secretary shall, where appropriate, make use of materials and technologies developed under the Star Schools Program Assistance Act.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $4,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

(20 U.S.C. 1114a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 714.

Subpart 3—Small State Teaching Initiative

SEC. 591. MODEL PROGRAMS AND EDUCATIONAL EXCELLENCE.

(a) PURPOSE.—It is the purpose of this section to provide sufficient funds to small States to enable such States to develop model programs for educational excellence, teacher training and educational reform.

(b) PROGRAM AUTHORIZED.—

(1) AUTHORITY.—The Secretary is authorized to make grants to small States in order to enable such States to make grants to eligible institutions for the purpose of enhancing and improving the quality of teacher education, training, and recruitment in the Nation's smallest States.

(2) EQUITABLE DISTRIBUTION.—The Secretary shall award grants described in paragraph (1) in equal amounts among small States having applications approved under subsection (e).

(c) INSTITUTIONAL USE OF FUNDS.—Eligible institutions receiving funds under this section may use such funds for the development of innovative teaching techniques and materials, preservice and inservice training programs, renovation of training facilities and construction of model classrooms.

(d) DEFINITIONS.—

(1) SMALL STATE.—For the purposes of this section the term "small State" means a State the total population of which is less than 1,108,500 as reported in the 1990 Census of Population and Housing.

(2) ELIGIBLE INSTITUTION.—For the purposes of this section, the term "eligible institution" means any institution of higher education (as such term is defined in section 1201(a)) that is located in a small State and that provides a course of study which prepares an individual to become a classroom teacher.

(e) APPLICATION.—Any eligible institution which desires to receive a grant under this section shall submit to the State an application which—

(1) if the State educational agency is not administering the program assisted under this subpart, certifies that the State educational agency has participated in the development of the application;

(2) provides for a process of active discussion and consultation with an advisory committee convened by the State educational agency and the eligible institution; and

(3) describes how the institution will use the funding.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this part there are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary in each of the 4 succeeding fiscal years.

(20 U.S.C. 1115) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 714.

Subpart 4—Faculty Development Grants

SEC. 593. TRAINING GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to institutions of higher education to enable such institutions to—

(1) develop model programs that provide training to secondary school faculty to prepare students with disabilities for postsecondary educational opportunities; and

(2) establish programs of faculty development for faculty who teach in an institution of higher education to prepare such faculty for the enrollment of students with disabilities at such institution.

(b) USE OF GRANTS.—The grants described in subsection (a) may be used to—

(1) provide scholarships, including stipends and allowances, to faculty described in paragraph (1) or (2) of subsection (a);

(2) develop materials and inservice programs to assist such faculty in making the curriculum at an institution of higher education accessible to students with disabilities; and

(3) provide funds to support the release of such faculty from teaching assignments for the purpose of educating such faculty regarding the needs of students with disabilities.

(c) SPECIAL RULES.—The Secretary shall ensure that grants awarded under subsection (a)(1) are used for programs that are in compliance with State and professionally recognized standards for the training of special education personnel.

(d) APPLICATION.—Each institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1116) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 715.

Subpart 5—Early Childhood Education Training

SEC. 596. TRAINING IN EARLY CHILDHOOD EDUCATION AND VIOLENCE COUNSELING.

(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to institutions of higher education to enable such institutions to establish innovative programs to recruit and train students for careers in—

(1) early childhood development and care, or preschool programs; or

(2) providing counseling to young children from birth to 6 years of age who have been affected by violence and to adults who work with such young children.

(b) APPLICATION.—An institution of higher education desiring a grant pursuant to subsection (a) shall submit an application to the

Secretary at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain a plan in accordance with subsection (c);

(3) demonstrate that such institution has the capacity to implement such plan; and

(4) provide assurances that such plan was developed in consultation with agencies and organizations that will assist the institution in carrying out such plan.

(c) PLAN.—Each application described in subsection (a) shall contain a comprehensive plan for the recruitment, retention and training of students seeking careers in early childhood development or violence counseling. Such plan shall include a description of—

(1) specific strategies for reaching students at secondary schools, community colleges, undergraduate institutions, or other agencies and institutions from which such students are to be drawn for participation in the program, including any partnerships with such institutions;

(2) specific strategies for retaining such students in the program, such as summer sessions, internships, mentoring, and other activities;

(3) methods that will be used to ensure that students trained pursuant to the plan will find employment in early childhood education, development and care, or violence counseling;

(4) the goals, objectives, and timelines to be used in assessing the success of the plan and of the activities assisted under this section;

(5) the curriculum and training leading to the degree or credential that prepares students for the careers described in the plan;

(6) the special plans, if any, to assure that students trained pursuant to the plan will be prepared for serving in economically disadvantaged areas; and

(7) sources of financial aid, to ensure that the training program offered pursuant to this section is available to all qualified students.

(d) SELECTION AND PRIORITIES.—In evaluating the applications submitted under this section, the Secretary shall prescribe criteria regarding such evaluation and shall give priority in granting funds to institutions that—

(1) prepare students for work in economically disadvantaged areas;

(2) plan to focus their recruitment, retention, and training efforts on disadvantaged students; and

(3) have demonstrated effectiveness in providing the type of training for which the institution seeks assistance under this section.

(e) DURATION AND AMOUNT.—

(1) DURATION.—A grant under this section shall be awarded for a period of not less than 3 years nor more than 5 years.

(2) AMOUNT.—The total amount of the grant awarded under this section to any institution of higher education for any 1 year shall not be less than $500,000 nor more than $1,000,000.

(20 U.S.C. 1117) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 716.

SEC. 597. EARLY CHILDHOOD STAFF TRAINING AND PROFESSIONAL ENHANCEMENT.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to States in accordance with the provisions of this section.

(2) DURATION.—Grants under this section shall be awarded for a period of 5 years.

(b) APPLICATION.—A State desiring a grant pursuant to this section shall submit an application to the Secretary at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require.

(c) LEAD AGENCY.—

(1) DESIGNATION OF LEAD AGENCY.—The chief executive officer of a State, in consultation with the State educational agency, desiring to receive a grant shall designate an appropriate State agency to act as the lead agency to—

(A) administer funds received under this section;

(B) develop a State plan pursuant to subsection (e); and

(C) coordinate the provision of services with other appropriate Federal, State, and local programs.

(2) ADVISORY COMMITTEE.—The lead agency shall establish an advisory committee, described in subsection (d), to assist in developing the plan required under subsection (e).

(d) ADVISORY COMMITTEE.—Each advisory committee established pursuant to subsection (c)(2) shall consist of a representative of the following agencies, institutions, organizations, divisions, programs or departments in the State to the extent such entities exist within such State:

(1) The lead State agency responsible for administering funds received under the Child Care and Development Block Grant Act.

(2) Other State agencies administering or regulating childcare, early childhood development or education programs.

(3) Institutions of higher education.

(4) Organizations representing early childhood development staff and parents.

(5) A local child care resource and referral agency or an organization representing local child care resource and referral.

(6) A State Head Start association.

(7) An organization with significant experience in training in the fields of early childhood development, early care and early education.

(8) State agencies or departments administering or regulating employment, job training, and community development programs.

(e) STATE PLAN.—

(1) IN GENERAL.—Each State desiring a grant under this section shall submit, through the lead agency, a plan to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The Secretary shall consult with the Secretary of Health and Human Services regarding the contents of such plan.

(2) CONTENTS.—Each plan submitted pursuant to subsection (a) shall—

(A) identify the lead agency as described in subsection (c);

(B) assess the training offerings and content of such offerings, amount of training required for an early childhood development staff license or certificate, compensation, recruitment and turnover of staff, and any coordination of training offerings and professional growth of early childhood development staff in the State;

(C) describe the goals of the activities assisted under this part; and

(D) describe how the State shall—

(i) identify and maintain a career development path, based on a progression of roles for early childhood development staff, with each role articulated with training and different levels of responsibility and suggested compensation, in such manner as will permit an individual to qualify for a more responsible role;

(ii) ensure that trainers of early childhood development staff in the State are qualified, licensed or certified in accordance with State law;

(iii) describe the ways in which the State will encourage the coordination of training programs among institutions of higher education, including, if practicable, transfer of credits among institutions;

(iv) set forth the ways in which the State will pay the costs of any assessment, credentialing, certification, licensing, training offering, training inventory, increase in staff participation in training, or other services assisted by a grant under this section;

(v) describe the ways in which the State plans to coordinate the various State and local agencies and organizations to maximize coordination of standards and requirements for certifications, licenses, and accreditations;

(vi) describe the ways in which the State will compile and disseminate information on—

(I) training offerings;

(II) requirements for admission into courses and programs;

(III) requirements for a license, certificate, credential, or degree to which such offerings may be applied;

(IV) funding sources available for such activities; and

(V) the cost of training offerings; and

(vii) describe the ways in which the State will use the funds received under this section and any other funds available to the State to carry out the activities described in the State plan.

(20 U.S.C. 1117a) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 717; amended December 20, 1993, P.L. 103-208, sec. 2(j)(9), 107 Stat. 2481.

SEC. 598. REPORT.

Each institution of higher education or State receiving a grant under this subpart shall submit to the Secretary program reports and evaluations at such times and containing such information as the Secretary may require.

(20 U.S.C. 1117b) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 719.

SEC. 599. AUTHORIZATION OF APPROPRIATIONS.

(a) TRAINING IN EARLY CHILDHOOD EDUCATION AND VIOLENCE COUNSELING.—To carry out activities described in section 596, there are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) EARLY CHILDHOOD STAFF TRAINING AND PROFESSIONAL ENHANCEMENT.—To carry out activities described in section 597, there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1117c) Enacted July 23, 1992, P.L. 102–325, sec. 501(a), 106 Stat. 719.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

SEC. 601. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

(b) PURPOSES.—It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, to develop a pool of international experts to meet national needs, and to coordinate the programs of the Federal Government in the areas of foreign language, area and other international studies, including professional international affairs education, and research.

(20 U.S.C. 1121) Enacted Nov. 8, 1965, P.L. 89–329, sec. 601, 79 Stat. 1261; amended Nov. 3, 1966, P.L. 89–752, sec. 3(b), 80 Stat. 1241; amended Oct. 16, 1968, P.L. 90–575, secs. 241, 242, 82 Stat. 1041; amended June 23, 1972, P.L. 92–318, sec. 151(a), 86 Stat. 288; amended October 12, 1976, P.L. 94–482, sec. 156, 90 Stat. 2155, 2156; amended October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1465; amended October 17, 1986, P.L. 99–498, sec. 601, 100 Stat. 1514; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 719.

SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS.

(a) NATIONAL LANGUAGE AND AREA CENTERS AUTHORIZED.—

(1) GENERAL AUTHORITY.—The Secretary is authorized—

(A) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

(B) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate language and area centers and programs,

which will be national resources for teaching of any modern foreign language, for instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used, for research and training in international studies, and the international and foreign language aspects of professional and other fields of study, and for instruction and research on issues in world affairs which concern one or more countries.

(2) AUTHORIZED ACTIVITIES.—Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

(A) faculty, staff, and student travel in foreign areas, regions, or countries;

(B) teaching and research materials;

(C) curriculum planning and development;

(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

(E) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the educational objectives of this section for the purpose of contributing to the teaching and research of the center or program; and

(F) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary, for carrying out the objectives of this section.

(3) GRANTS TO MAINTAIN LIBRARY COLLECTIONS.—The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

(4) OUTREACH GRANTS AND SUMMER INSTITUTES.—The Secretary may make additional grants to centers described in paragraph (1) for any one or combination of the following purposes:

(A) Programs of linkage or outreach between foreign language, area studies, and other international fields and professional schools and colleges.

(B) Programs of linkage or outreach with 2 and 4-year colleges and universities.

(C) Programs of linkage or outreach with departments or agencies of Federal and State Governments.

(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

(E) Summer institutes in foreign area and other international fields designed to carry out the programs of linkage and outreach in subparagraphs (A), (B), (C), and (D) of this paragraph.

(b) STIPENDS FOR FOREIGN LANGUAGE AND AREA STUDIES.—

(1) GRADUATE STIPENDS.—(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary under this part.

(B) Students receiving stipends described in subparagraph (A) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program.

(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

(2) DOCTORAL STIPENDS.—(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to students beginning with their third year of graduate training in any center or program approved by the Secretary under this part.

(B) Students receiving stipends described in subparagraph (A) shall be individuals engaged in completing advanced degree requirements in foreign language, foreign area studies, or other international fields.

(C) Stipends shall be for the purpose of completing degree requirements, such as the predissertation level studies, preparation for dissertation research including the study of less commonly taught languages, dissertation research abroad, and dissertation writing.

(D) Students may receive stipends described in subparagraph (A) for a maximum of 4 years if such students make satisfactory progress toward completion of a degree program.

(3) FUNDING LIMITATIONS.—The Secretary is not authorized to make awards under paragraph (2) for any fiscal year unless the amount made available under paragraph (1) for such fiscal year equals or exceeds the current services equivalent of the level of funding during fiscal year 1992 under paragraph (1).

(c) SPECIAL RULE WITH RESPECT TO TRAVEL.—No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

(20 U.S.C. 1122) Enacted Nov. 8, 1965, P.L. 89–329, sec. 602, 79 Stat. 1261; amended Nov. 15, 1977, P.L. 95–180, 91 Stat. 1372; amended October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1465; amended October 17, 1986, P.L. 99–498, sec. 602, 100 Stat. 1514; amended June 3, 1987, P.L. 100–50, sec. 18, 101 Stat. 360; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 720; amended December 20, 1993, P.L. 103–208, sec. 2(j)(10) and (11), 107 Stat. 2481.

SEC. 603. LANGUAGE RESOURCE CENTERS.

(a) LANGUAGE RESOURCE CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

(3) the development and application of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

(4) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

(5) the publication of instructional materials in the less commonly taught languages; and

(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

(b) CONDITIONS FOR GRANTS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

(20 U.S.C. 1123) Enacted November 8, 1965, P.L. 89–329, sec. 603, 79 Stat. 1262; amended October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1466; amended October 17, 1986, P.L. 99–498, sec. 603, 100 Stat. 1515; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 722; amended December 20, 1993, P.L. 103–208, sec. 2(j)(12), 107 Stat. 2481.

SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

(a) INCENTIVES FOR THE CREATION OF UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.—

(1) AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions to assist such institutions or combinations in planning, developing, and carrying out a program to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions of higher education or combinations of such institutions seeking

to create new programs or curricula in area studies, foreign languages, and other international fields.

(2) FEDERAL SHARE AND USE OF FUNDS.—Grants made under this section may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of such a program, such as—

(A) planning for the development and expansion of undergraduate programs in international studies;

(B) teaching, research, curriculum development, and other related activities;

(C) training of faculty members in foreign countries;

(D) expansion of foreign language courses;

(E) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(F) international education programs designed to develop or enhance linkages between two- and four-year institutions of higher education, or baccalaureate and postbaccalaureate programs or institutions;

(G) the development of an international dimension in preservice and inservice teacher training;

(H) the development of undergraduate study abroad programs in locations abroad in which such study opportunities are not otherwise available or which serve students for whom such opportunities are not otherwise available and which provide courses that are closely related to oncampus foreign language and international studies curricula; and

(I) the integration of new study abroad opportunities for undergraduate students into curricula of specific degree programs.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of the programs assisted under this subsection may be provided either in cash or in kind. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.

(4) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education or combinations of such institutions that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a two-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

(b) GRANTS TO STRENGTHEN PROGRAMS OF DEMONSTRATED EXCELLENCE IN UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.—

(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education to enable such institutions of higher education, combinations of such institutions or partnerships to—

(A) strengthen programs of demonstrated excellence in area studies, foreign languages, and other international fields in order to ensure the self-sustaining maintenance and growth of such programs; and

(B) enhance the capacity-building and dissemination functions of such programs.

(2) FEDERAL SHARE AND USE OF GRANT FUNDS.—Grants awarded under this subsection may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of the programs described in paragraph (1), such as—

(A) teaching, research, curriculum development, and other related activities;

(B) strengthening undergraduate majors and minors directly related to the generation of international expertise;

(C) developing new foreign language courses, especially in languages previously not taught at such institution or combination of such institutions, and improving the quality of existing foreign language programs;

(D) expanding library and teaching resources;

(E) establishing linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this subsection;

(F) developing programs designed to integrate professional and technical education with area studies, foreign languages, and other international fields;

(G) disseminating curricular materials and program designs to other educational institutions;

(H) integrating on-campus undergraduate curriculum with study abroad and exchange programs;

(I) training faculty and staff in area studies, foreign languages, and other international fields;

(J) conducting summer institutes in foreign area and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities;

(K) developing study and internship abroad programs—

(i) in locations in which such opportunities are not otherwise available; or

(ii) which serve students for whom such opportunities are not otherwise available; and

(L) developing model programs to enrich or enhance the effectiveness of study abroad programs, including predeparture and post return orientation programs, integration of study abroad into the curriculum of the home institution, credit transfer, improved faculty involvement, cross-disciplinary programs, student selection and advising services, and academic advising.

(3) Non-federal share.—The non-Federal share of the cost of the programs assisted under this subsection may be provided either in cash or in kind. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.

(4) Evaluation criteria and report.—As a condition for the award of any grant under this subsection, the Secretary may establish criteria for evaluating programs and require an annual report which evaluates the progress and performance of students in such programs.

(c) Programs of National Significance.—The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

(20 U.S.C. 1124) Enacted November 8, 1965, P.L. 89–329, sec. 604, 79 Stat. 1263; amended November 3, 1966, P.L. 89–752, sec. 14, 80 Stat. 1244; amended October 16, 1968, P.L. 90–575, sec. 242, 82 Stat. 1041; amended October 12, 1976, P.L. 94–482, sec. 157, 90 Stat. 2156; amended October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1466; amended October 17, 1986, P.L. 99–498, sec. 604, 100 Stat. 1516; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 722.

SEC. 605. INTENSIVE SUMMER LANGUAGE INSTITUTES.

(a) Intensive Summer Language Institutes Authorized.—

(1) Grants authorized.—The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

(2) Eligible grant recipients.—Training authorized by this section shall be provided through—

(A) institutes designed to meet the needs for intensive language training by advanced foreign language students;

(B) institutes designed to provide professional development and improve language instruction through preservice and inservice training for language teachers; or

(C) institutes that combine the purposes of subparagraphs (A) and (B).

(3) Authorized activities.—Grants made under this section may be used for—

(A) intensive training in critical languages;

(B) training in neglected languages; and

(C) stipends for students and faculty attending the institutes authorized by this section.

(4) Instructional program.—Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 602.

(b) Peer Review.—Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.

(20 U.S.C. 1124a) Enacted October 17, 1986, P.L. 99–498, sec. 605(2), 100 Stat. 1517; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 725.

SEC. 606. RESEARCH; STUDIES; ANNUAL REPORT.

(a) AUTHORIZED ACTIVITIES.—The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part. Such research and studies may include but are not limited to—

(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

(3) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(4) research on more effective methods of providing instruction and achieving competency in foreign languages;

(5) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists; and

(6) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

(b) ANNUAL REPORT.—The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

(20 U.S.C. 1125) Enacted November 8, 1965, P.L. 89–329, sec. 605, 79 Stat. 1264; amended October 16, 1968; P.L. 90–575, sec. 242, 82 Stat. 1041; amended October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1467; amended December 21, 1982, P.L. 97–375, sec. 204, 96 Stat. 1823; amended August 22, 1986, P.L. 99–386, sec. 103(c), 100 Stat. 821; amended October 17, 1986, P.L. 99–498, secs. 605(1), 606, 100 Stat. 1517; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 725.

SEC. 607. PERIODICALS AND OTHER RESEARCH MATERIALS PUBLISHED OUTSIDE THE UNITED STATES.

(a) PROGRAM AUTHORIZED; AUTHORIZATION OF APPROPRIATIONS.—

(1) PROGRAM AUTHORIZED.—From the amount appropriated under paragraph (2), the Secretary is authorized to award grants to institutions of higher education, public or nonprofit private library institutions, or consortia of such institutions for the acquisition of, and provision of access to, periodicals and other research materials published outside the United States.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amount authorized to be appropriated by section 610A, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

(b) AUTHORIZED ACTIVITIES.—Grants under this section shall be used for the following purposes:

(1) To acquire periodicals and other research materials published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance.

(2) To maintain in machine-readable form current bibliographic information on periodicals and other research materials thus acquired, and to enter such information into one or more of the widely available bibliographic data bases.

(3) To preserve such periodicals and other research materials.

(4) To make such periodicals and other research materials widely available to researchers and scholars.

(c) APPLICATION AND PREFERENCE.—

(1) APPLICATION.—Each institution or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may reasonably require.

(2) PREFERENCE.—The Secretary shall give preference to grant applications according to the following criteria:

(A) The total number of library research materials in an institution's or consortium's collection.

(B) The comprehensiveness, both current and retrospective, of the institution's or consortium's collection of periodicals and other research materials published outside the United States.

(C) Public accessibility to the institution's or consortium's collection of periodicals and other research materials published outside the United States.

(D) The institution's or consortium's technological capability to share its collection of periodicals and other research materials published outside the United States with other institutions of higher education, with public or nonprofit institutions, and with individual scholars.

(E) The institution's or consortium's budget and staff capability to build, maintain, and service periodicals and other research materials published outside the United States.

(3) SUFFICIENT SIZE.—The Secretary shall award grants under this section of sufficient size to enable an institution or consortium to—

(A) substantially improve its collection of foreign periodicals and other research materials published outside the United States; and

(B) contribute to a comprehensive national base of foreign language materials for students and scholars.

(d) WRITTEN AGREEMENT.—

(1) AGREEMENT REQUIRED.—Prior to the awarding of grants authorized under subsection (c), each recipient institution or consortium shall file a formal written agreement with the Secretary which outlines their collecting responsibilities regarding periodicals and other research materials published outside the United States and ensures public access.

(2) FUNDING LIMITATION.—No funds from grants authorized under subsection (c) may be used by a recipient institution or consortium to acquire and process periodicals and other research materials published outside the United States other than that specified in the agreement filed with the Secretary under paragraph (1).

(e) COPYRIGHT.—Nothing in this section shall be considered to amend, affect, or define the provisions of title 17, United States Code, relating to copyright.

(20 U.S.C. 1125a) Enacted October 17, 1986, P.L. 99–498, sec. 607, 100 Stat. 1518; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 726; amended December 20, 1993, P.L. 103–208, sec. 2(j)(13), 107 Stat. 2481.

(20 U.S.C. 1125a) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 726.

SEC. 608. SELECTION OF CERTAIN GRANT RECIPIENTS.

(a) COMPETITIVE GRANTS.—The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluates the applications for comprehensive and undergraduate language and area centers and programs.

(b) SELECTION CRITERIA.—The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

(c) EQUITABLE DISTRIBUTION OF GRANTS.—The Secretary shall, to the extent practicable, award grants under this part (other than section 602) in such manner as to achieve an equitable distribution of funds throughout the United States, based on the merit of a proposal with peer review by broadly representative professionals.

(20 U.S.C. 1125b) Enacted October 17, 1986, P.L. 99–498, sec. 608, 100 Stat. 1518; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 727.

SEC. 609. EQUITABLE DISTRIBUTION OF CERTAIN FUNDS.

(a) SELECTION CRITERIA.—The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

(b) EQUITABLE DISTRIBUTION.—To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such a manner as will achieve an equitable distribution of funds throughout the Nation.

(c) SUPPORT FOR UNDERGRADUATE EDUCATION.—The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

(20 U.S.C. 1126) Enacted November 8, 1965, P.L. 89–329, sec. 606, 79 Stat. 1265; amended October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1467; amended October 17, 1986, P.L. 99–498, sec. 605(1), 100 Stat. 1517; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 727.

SEC. 610. AMERICAN OVERSEAS RESEARCH CENTERS.

(a) CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a "center") to enable such center to promote postgraduate research, exchanges and area studies.

(b) USE OF GRANTS.—Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including the cost of faculty and staff stipends and salaries, faculty, staff and student travel, the operation and maintenance of overseas facilities, the cost of teaching and research materials, the cost of acquisition, maintenance and preservation of library collections, the cost of bringing visiting scholars and faculty to a center to teach or to conduct research, the cost of organizing and managing conferences and the cost of publication and dissemination of material for the scholarly and general public.

(c) LIMITATION.—The Secretary shall only award grants to and enter into contracts with centers under this section that—

(1) receive more than 50 percent of their funding from public or private United States sources;

(2) have a permanent presence in the country in which the center is located; and

(3) are organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 which are exempt from taxation under section 501(a) of such Code.

(20 U.S.C. 1127) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 728.

SEC. 610A. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $80,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

(20 U.S.C. 1127) Enacted November 8, 1965, P.L. 89–329, sec. 607, 79 Stat. 1265; amended October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1467; amended October 17, 1986, P.L. 99–498, sec. 605(1), 100 Stat. 1517, 1519; renumbered and amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 728.

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and educational community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, professional international affairs education programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) PURPOSES.—It is the purpose of this part—

(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

(20 U.S.C. 1130) Enacted October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1467; amended October 17, 1986, P.L. 99–498, sec. 610, 100 Stat. 1519; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 728.

SEC. 612. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

(A) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted;

(B) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners; and

(C) will provide research and training in the international aspects of trade, commerce, and other fields of study.

(2) SPECIAL RULE.—In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses. Such centers shall also serve other faculty, students, and institutions of higher education located within their region.

(b) AUTHORIZED EXPENDITURES.—Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

(1) faculty and staff travel in foreign areas, regions, or countries;

(2) teaching and research materials;

(3) curriculum planning and development;

(4) bringing visiting scholars and faculty to the center to teach or to conduct research; and

(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

(c) AUTHORIZED ACTIVITIES.—

(1) MANDATORY ACTIVITIES.—Programs and activities to be conducted by centers assisted under this section shall include—

(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and advanced degree candidates;

(C) evening or summer programs, such as intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

(2) PERMISSIBLE ACTIVITIES.—Programs and activities to be conducted by centers assisted under this section may include—

(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program;

(B) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section;

(C) summer institutes in international business, foreign area studies, and other international studies designed to carry out the purposes of subparagraph (A) of this paragraph;

(D) the development of opportunities for business students to study abroad in locations which are important to the existing and future economic well-being of the United States;

(E) outreach activities or consortia with business programs located at other institutions of higher education for the purpose of providing expertise regarding the internationalization of such programs, such as assistance in research, curriculum development, faculty development, or educational exchange programs; and

(F) other eligible activities prescribed by the Secretary.

(d) Advisory Council.—

(1) Establishment.—In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

(2) Membership on advisory council.—The center advisory council shall include—

(A) one representative of an administrative department or office of the institution of higher education;

(B) one faculty representative of the business or management school or department of such institution;

(C) one faculty representative of the international studies or foreign language school or department of such institution;

(D) one faculty representative of another professional school or department of such institution, as appropriate;

(E) one or more representatives of local or regional businesses or firms;

(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

(G) such other individuals as the institution of higher education deems appropriate.

(3) Meetings.—In addition to the initial planning activities required under subsection (d)(1), the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

(e) Grant Duration; Federal Share.—

(1) Duration of grants.—The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

(2) Federal share.—The Federal share of the cost of planning, establishing and operating centers under this section shall be—

(A) not more than 90 percent for the first year in which Federal funds are received;

(B) not more than 70 percent for the second such year; and

(C) not more than 50 percent for the third such year and for each such year thereafter.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind.

(4) WAIVER OF NON-FEDERAL SHARE.—In the case of an institution of higher education receiving a grant under this part and conducting outreach or consortia activities with another institution of higher education in accordance with section 612(c)(2)(E), the Secretary may waive a portion of the requirements for the non-Federal share required in paragraph (2) equal to the amount provided by the institution of higher education receiving such grant to such other institution of higher education for carrying out such outreach or consortia activities. Any such waiver shall be subject to such terms and conditions as the Secretary deems necessary for carrying out the purposes of this section.

(f) GRANT CONDITIONS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

(1) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1);

(2) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies, professional international affairs, and other professional schools or departments, as appropriate;

(3) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

(4) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1).

(20 U.S.C. 1130–1) Enacted Aug. 23, 1988, P.L. 100–418, sec. 6261, 102 Stat. 1520–1523; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 729.

SEC. 613. EDUCATION AND TRAINING PROGRAMS.

(a) PROGRAM AUTHORIZED.—The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this section shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) AUTHORIZED ACTIVITIES.—Eligible activities to be conducted by institutions of higher education pursuant to grants or contracts awarded under this section shall include—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs, and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity;

(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies;

(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.

(c) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an institution of higher education submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

(d) FEDERAL SHARE.—The Federal share under this part for each fiscal year shall not exceed 50 percent of the cost of such program.

(20 U.S.C. 1130a) Enacted October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1468; amended October 17, 1986, P.L. 99–498, sec. 611, 100 Stat. 1519; amended Aug. 23, 1988, P.L. 100–418, secs. 6261 and 6263, 102 Stat. 1520 and 1523; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 732.

SEC. 614. AUTHORIZATION OF APPROPRIATIONS.

(a) CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.—There are authorized to be appropriated $11,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of section 612.

(b) EDUCATION AND TRAINING PROGRAMS.—There are authorized to be appropriated $7,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 613.

(20 U.S.C. 1130b) Enacted October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1469; amended October 17, 1986, P.L. 99–498, sec. 612, 100 Stat. 1519; amended Aug. 23, 1988, P.L. 100–418, secs. 6261 and 6263, 102 Stat. 1520 and 1523; amended November 16, 1990, P.L. 101–600, sec. 7, 104 Stat. 3046; amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 733.

PART C—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

SEC. 621. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary is authorized to award a grant, on a competitive basis, to an eligible recipient to enable such recipient to establish an Institute for International Public Policy (hereafter in this part referred to as the "Institute"). The Institute shall conduct a program to significantly increase the numbers of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States. Such program shall include a program for such students to study abroad in their junior year, fellowships for graduate study, internships, intensive academic programs such as summer institutes, or intensive language training.

(b) DEFINITION OF ELIGIBLE RECIPIENT.—

(1) IN GENERAL.—For the purpose of this part, the term "eligible recipient" means a consortium consisting of 1 or more of the following entities:

(A) An institution eligible for assistance under part B of title III of this Act.

(B) An institution of higher education which serves substantial numbers of African American or other underrepresented minority students.

(C) An institution of higher education with programs in training foreign service professionals.

(2) HOST INSTITUTION.—Each eligible recipient receiving a grant under this section shall designate an institution of higher education as the host institution for the Institute.

(c) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(d) DURATION.—Grants made pursuant to this section shall be awarded for a period not to exceed 5 years.

(e) MATCH REQUIRED.—The eligible recipient of a grant under this section shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-fourth the amount of the grant, which contribution may be in cash or in kind.

(20 U.S.C. 1131) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 734.

SEC. 622. JUNIOR YEAR ABROAD PROGRAM.

(a) PROGRAM AUTHORITY.—The Institute shall conduct, by grant or contract, a junior year abroad program. The junior year abroad program shall be open to eligible students at institutions of higher education, including historically Black colleges and universities as defined in section 322 of this Act, tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978, and other institutions of higher education with significant minority student populations. Eligible student expenses shall be shared by the Institute and the institution at which the student is in attendance. Each student may spend not more than 9 months abroad in a program of academic study, as well as social, familial and political interactions designed to foster an understanding of and familiarity with the language, culture, economics and governance of the host country.

(b) DEFINITION OF ELIGIBLE STUDENT.—For the purpose of this section, the term "eligible student" means a student that is—

(1) enrolled full-time in a baccalaureate degree program at an institution of higher education; and

(2) entering the third year of study at an institution of higher education which nominates such student for participation in the junior year abroad program.

(c) SPECIAL RULE.—An institution of higher education desiring to send a student on the junior year abroad program shall enter into a Memorandum of Understanding with the Institute under which such institution of higher education agrees to—

(1) provide the requisite academic preparation for students participating in the junior year abroad or internship programs;

(2) pay one-half the cost of each student it nominates for participation in the junior year abroad program; and

(3) meet such other requirements as the Secretary may from time to time, by regulation, reasonably require.

(20 U.S.C. 1131a) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 734.

SEC. 623. MASTERS DEGREE IN INTERNATIONAL RELATIONS.

The Institute shall provide, in cooperation with the other members participating in the eligible recipient consortium, a program of study leading to a masters degree in international relations. The masters degree program designed by the consortia shall be reviewed and approved by the Secretary. The Institute may grant fellowships in an amount not to exceed the level of support comparable to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurement of need approved by the Secretary. A fellowship recipient shall agree to undertake full-time study and to enter the international service (including work with private international voluntary organizations) or foreign service of the United States

(20 U.S.C. 1131b) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 735.

SEC. 624. INTERNSHIPS.

The Institute shall enter into agreements with historically Black colleges and universities as defined in section 322 of this Act, tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978, other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with an international voluntary or government organizations or agencies, including the Agency for International Development, the United States Information Agency, the International Monetary Fund, the National Security Council, the Organization of American States, the Export-Import Bank, the Overseas Private Investment Corporation, the Department of State, Office of the United States Trade Representative, the World Bank, and the United Nations.

(20 U.S.C. 1131c) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 735.

SEC. 625. REPORT.

The Institute shall annually prepare a report on the activities of the Institute and shall submit such report to the Secretary of Education and the Secretary of State.

(20 U.S.C. 1131d) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 735.

SEC. 626. GIFTS AND DONATIONS.

The Institute is authorized to receive money and other property donated, bequeathed, or devised to the Institute with or without a condition of restriction, for the purpose of providing financial support for the fellowships or underwriting the cost of the Junior Year Abroad Program. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report described in section 625.

(20 U.S.C. 1131e) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 736.

SEC. 627. AUTHORIZATION.

There is authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(20 U.S.C. 1131f) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 736.

PART D—GENERAL PROVISIONS

SEC. 631. DEFINITIONS.

(a) DEFINITIONS.—As used in this title—

(1) the term "area studies" means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term "international business" means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods, investments in industries, the licensing of processes, patents and trademarks, and the supply of services;

(3) the term "export education" means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

(4) the term "internationalization of curricula" means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

(5) the term "comprehensive language and area center" means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

(6) the term "undergraduate language and area center" means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language and area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students;

(7) the term "critical languages" means each of the languages contained in the list of critical languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413), except that, in the implementation of this definition, the Secretary may set priorities according to the purposes of this title; and

(8) the term "institution of higher education" means, in addition to institutions which meet the definition of section 1201(a) of this Act, institutions which meet the requirements of section 1201(a) of this Act except that (1) they are not located in the United States, and (2) they apply for assistance under this title in consortia with institutions which meet the definition of 1201(a) of this Act.

(b) SPECIAL CONDITIONS.—All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

(20 U.S.C. 1132) Enacted Nov. 8, 1965, P.L. 89–329, sec. 622, 79 Stat. 1266; amended October 3, 1980, P.L. 96–374, sec. 614, 94 Stat. 1470; amended October 17, 1986, P.L. 99–498, sec. 614, 160 Stat. 1520; renumbered and amended July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 736.

SEC. 632. PRESERVATION OF PRE-1992 PROGRAMS.

Notwithstanding any other provision of law, amendments to this title establishing new programs or expanding existing programs enacted pursuant to the Higher Education Amendments of 1992 shall not be funded in fiscal year 1993, or the 4 succeeding fiscal years, unless and until Congress enacts appropriations for programs under this title enacted prior to such Amendments at a level no less than the level of funding in effect for such preexisting programs for fiscal year 1992.

(20 U.S.C. 1132–1) Enacted July 23, 1992, P.L. 102–325, sec. 601, 106 Stat. 737.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

SEC. 701. PURPOSES.

(a) IN GENERAL.—The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition and maintenance of special research and instructional instrumentation and equipment. In making such grants, the Secretary shall include assistance to enable institutions—

(1) to bring their facilities into conformity with the requirements of—

(A) Federal, State, and local laws requiring removal of barriers to full participation by individuals with disabilities;

(B) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed; or

(C) hazardous waste disposal, treatment, and storage requirements mandated by the Resource Conservation and Recovery Act of 1976, or similar State statutes;

(2) to more efficiently use available energy resources, especially coal, solar power, and other renewable energy resources;

(3) to detect, remove, or otherwise contain asbestos hazards in academic and other facilities used by students, in accordance with regulations prescribed by the Secretary;

(4) to construct, reconstruct, or renovate the Nation's academic research and instructional instrumentation and facilities, including libraries (including renovation of libraries to promote the use of new technologies and preservation of library materials), and to acquire and maintain special research and instructional instrumentation and equipment;

(5) to provide facilities for advanced skill training programs that relate to emerging technologies and skill needs;

(6) with unusual increases in enrollment or with significant internal programmatic enrollment shifts (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

(7) to preserve significant architecture.

(b) PRIORITY ON RENOVATION.—In the awarding of grants under part A or B of this title, priority shall be given to projects involving the renovation of facilities.

(20 U.S.C. 1132a) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 288; amended October 12, 1976, P.L. 94-482, secs. 161(a), 162(a)(3), 162(b), 90 Stat. 2157; amended October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1472; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1520; amended June 3, 1987, P.L. 100-50, sec. 19(1), 101 Stat. 360; amended July 23, 1992, P.L. 102-325, sec. 701, 106 Stat. 737; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

SEC. 702. PRIOR RIGHTS AND OBLIGATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of this title, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992.

(b) LEGAL RESPONSIBILITIES.—Except as provided in section 783, all entities with continuing obligations incurred under parts A, B, C, and D of this title, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Act Amendments of 1992.

(20 U.S.C. 1132a-1) Enacted July 23, 1992, P.L. 102-325, sec. 702, 106 Stat. 738.

PART A—IMPROVEMENT OF ACADEMIC AND LIBRARY FACILITIES

SEC. 711. SHORT TITLE.

This part may be cited as the "Higher Education Facilities Act of 1992".

(20 U.S.C. 1132b) Enacted July 23, 1992, P.L. 102-325, sec. 703, 106 Stat. 738.

SEC. 712. FINDINGS.

The Congress finds that—

(1) over the past 50 years institutions of higher education have expanded dramatically, while at the same time tradi-

tional sources of funding facilities maintenance and repair have declined and even disappeared in some instances;

(2) in order to meet the rising cost of educating students, resulting mainly from inflation and the higher costs of research, many colleges and universities made the choice to defer renovations and improvements;

(3) overall, the need for capital investment by institutions of higher education has been estimated to exceed $60,000,000,000;

(4) the deterioration of facilities has caused valuable research experiments and programs to be postponed, delayed or canceled; and

(5) the United States' competitive position within the world economy is vulnerable if the necessary research facilities are not available to provide advanced training in the fields of science and technology.

(20 U.S.C. 1132b–1) Enacted July 23, 1992, P.L. 102–325, sec. 703, 106 Stat. 738.

SEC. 713. DISTRIBUTION OF ASSISTANCE.

(a) COMPETITIVE OR FORMULA DISTRIBUTION.—

(1) COMPETITIVE GRANTS.—If the amount appropriated pursuant to section 716 for a fiscal year is less than $50,000,000, then the Secretary shall award grants under this part on a competitive basis in accordance with subsection (h) to institutions of higher education to carry out the activities described in section 714.

(2) ALLOTMENT FORMULA.—

(A) FORMULA.—If the amount appropriated pursuant to section 716 for a fiscal year is equal to or greater than $50,000,000, then the Secretary shall allot to each State higher education agency with an approved application—

(i) 50 percent of such funds on the basis of the population of the State compared to the population of all States; and

(ii) 50 percent of such funds on the basis of the number of students attending institutions of higher education within the State compared to the number of students attending institutions of higher education in all States.

(B) USE OF FORMULA GRANTS.—Each State higher education agency receiving an allotment pursuant to subparagraph (A), shall use such allotment to award grants, on a competitive basis, to institutions of higher education within the State to enable such institutions to carry out the activities described in section 714.

(C) REALLOTMENT.—Except as provided in subsection (f), any amount that the Secretary determines will not be available to a State higher education agency because such agency elects not to participate in the program assisted under this part shall be reallotted to other States in the same manner as the original allotments were made.

(b) MATCHING REQUIREMENTS.—

(1) STATE MATCHING REQUIREMENT.—

(A) In general.—In order to receive an allotment under subsection (a)(2)(A), each State higher education agency shall provide matching funds equal to 25 percent of the amount of any allotment received pursuant to such subsection. The Secretary may waive the requirements of the preceding sentence if the State can demonstrate to the satisfaction of the Secretary that such matching requirement would present a severe financial hardship to the State.

(B) Cash requirement.—Each State higher education agency receiving funds under this part shall only provide matching funds pursuant to paragraph (1) in cash.

(2) Institutional matching requirement.—In order to receive a grant under subsection (a)(1) or (a)(2)(B), each eligible institution shall provide matching funds equal to 50 percent of the amount of any grant received pursuant to such subsection. Such matching funds may be provided by the State higher education agency or the institution of higher education.

(c) Priority.—In awarding grants pursuant to subsection (a), the Secretary or each State higher education agency shall give priority to institutions of higher education that serve large numbers or percentages of minority or disadvantaged students.

(d) Equitable Participation.—In awarding grants pursuant to subsection (a), the Secretary or each State higher education agency shall ensure the equitable participation of both public and private eligible institutions within the State.

(e) Special Rule.—If the Secretary determines that any eligible institution within a State has received, within the 2 preceding fiscal years, a direct, noncompetitive award of Federal funds for facilities construction, renovation, improvement or repair, then the eligible institution shall be ineligible to receive assistance under this part.

(f) Use for Maintenance.—An amount less than or equal to 10 percent of that portion of funds awarded under this part which is allotted by the recipient to meet costs of—

(1) research and instructional instrumentation and equipment; and

(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment;

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within 3 years of the date of initial use, if the recipient deems such upgrading essential to the continued usefulness of such research or instructional instrumentation and equipment.

(g) Supplementation.—Grants awarded pursuant to subsection (a) shall be used to supplement and not supplant other Federal, State, and local funds available for improvement of academic and library facilities.

(h) Peer Review Required.—In making grants under subsection (a)(1), the Secretary shall utilize a national peer review

panel. The panel shall be broadly representative of all types and classes of institutions of higher education in the United States.

(20 U.S.C. 1132b–2) Enacted July 23, 1992, P.L. 102–325, sec. 703, 106 Stat. 738.

SEC. 714. USE OF FUNDS.

Institutions of higher education shall use funds awarded under this part for any one or more of the following activities:

(1) The improvement, renovation, and repair of academic facilities.

(2) The improvement and renovation of library facilities.

(3) The improvement and renovation of broadcast, cable, and satellite interconnection equipment for use in postsecondary educational television and radio programming, including interactive technology and communications.

(4) The construction of academic and library facilities if the State determines such construction necessary.

(20 U.S.C. 1132b–3) Enacted July 23, 1992, P.L. 102–325, sec. 703, 106 Stat. 740; amended December 20, 1993, P.L. 103–208, sec. 2(j)(14), 107 Stat. 2481.

SEC. 715. APPLICATION.

(a) STATE HIGHER EDUCATION AGENCY.—

(1) APPLICATION.—Each State higher education agency desiring an allotment pursuant to section 713(a)(2)(A) shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application described in paragraph (1) shall—

(A) describe the activities and services for which assistance is sought;

(B) contain assurances that the State higher education agency will comply with the matching requirement described in section 713(b)(1);

(C) contain a description and the amount of any direct, noncompetitive appropriation of funds for facilities construction, renovation, improvement or repair which the State provides to any institution of higher education within the State; and

(D) contain such other assurances as the Secretary determines necessary to ensure compliance with the provisions of this part.

(b) INSTITUTIONS OF HIGHER EDUCATION.—

(1) APPLICATION.—Each institution of higher education desiring a grant pursuant to section 713(a)(1) or 713(a)(2)(B) shall submit an application to the Secretary or the State higher education agency, as appropriate, at such time, in such manner and accompanied by such information as the Secretary or such agency may reasonably require.

(2) CONTENTS.—Each application described in paragraph (1) shall—

(A) describe the activities and services for which assistance is sought;

(B) contain assurances that the eligible institution will comply with the matching requirement described in section 713(b)(2); and

(C) contain such other assurances as the Secretary or State higher education agency determines necessary to ensure compliance with the provisions of this part.

(20 U.S.C. 1132b–4) Enacted July 23, 1992, P.L. 102–325, sec. 703, 106 Stat. 740; amended December 20, 1993, P.L. 103–208, sec. 2(j)(15), 107 Stat. 2481.

SEC. 716. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $350,000,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out the provisions of this part.

(20 U.S.C. 1132b–5) Enacted July 23, 1992, P.L. 102–325, sec. 703, 106 Stat. 741.

PART B—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

SEC. 721. FINDINGS.

The Congress finds that—

(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

(5) despite their track record of long-standing and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

(20 U.S.C. 1132c) Enacted July 23, 1992, P.L. 102–325, sec. 704, 106 Stat. 741.

SEC. 722. DEFINITIONS.

For the purposes of this part:

(1) The term "eligible institution" means a "part B institution" as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

(2) The term "loan" means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

(3) The term "qualified bond" means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 723(b).

(4) The term "funding" means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 723.

(5) The term "capital project" means, subject to section 724(b) the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of—

(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

(B) instructional equipment, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

(C) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

(D) any real property or interest therein underlying facilities described in subparagraph (A) or (C).

(6) The term "interest" includes accredited value or any other payment constituting interest on an obligation.

(7) The term "outstanding", when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

(8) The term "designated bonding authority" means the private, for-profit corporation selected by the Secretary pursuant to section 725(1) for the purpose of issuing taxable construction bonds in furtherance of the purposes of this part.

(9) The term "Advisory Board" means the Advisory Board established by section 727 of this part.

(20 U.S.C. 1132c–1) Enacted July 23, 1992, P.L. 102–325, sec. 704, 106 Stat. 742.

SEC. 723. FEDERAL INSURANCE FOR BONDS.

(a) GENERAL RULE.—Subject to the limitations in section 724, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d).

(b) RESPONSIBILITIES OF THE DESIGNATED BONDING AUTHORITY.—The Secretary may not enter into an insurance agreement described in subsection (a) unless the Secretary designates a qualified bonding authority in accordance with sections 725(1) and 726 and the designated bonding authority agrees in such agreement to—

(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project; or

(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

(8) establish an escrow account—

(A) into which each eligible institution shall deposit 10 percent of the proceeds of any loan made under this part; and

(B) the balance of which—

(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

(ii) when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution's deposit;

(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

(10) comply with the limitations set forth in section 724 of this part; and

(11) make loans only to eligible institutions under this part in accordance with regulations prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions.

(c) ADDITIONAL AGREEMENT PROVISIONS.—Any insurance agreement described in subsection (a) of this section shall provide as follows:

(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8).

(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

(6) All funds provided under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

(d) FULL FAITH AND CREDIT PROVISIONS.—Subject to section 723(c)(1) the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

(20 U.S.C. 1132c–2) Enacted July 23, 1992, P.L. 102–325, sec. 704, 106 Stat. 743.

SEC. 724. LIMITATIONS ON FEDERAL INSURANCE FOR BONDS ISSUED BY THE DESIGNATED BONDING AUTHORITY.

(a) LIMIT ON AMOUNT.—At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $375,000,000, of which—

(1) not more than $250,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than $125,000,000 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania is an historically Black public institution. No institution of higher education that has received assistance under section 8 of the Act of March 2, 1867 (20 U.S.C. 123) shall be eligible to receive assistance under this part.

(b) LIMITATION ON CREDIT AUTHORITY.—The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

(c) RELIGIOUS ACTIVITY PROHIBITION.—No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

(d) DISCRIMINATION PROHIBITION.—No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(20 U.S.C. 113[illegible]-3) Enacted July 23, 1992, P.L. 102–325, sec. 704, 106 Stat. 745.

SEC. 725. AUTHORITY OF THE SECRETARY.

In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

(1) shall, within 120 days of enactment of the Higher Education Amendments of 1992, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

(A) specify the time and manner for submission of proposals; and

(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

(2) shall require that the first loans for capital projects authorized under section 723 be made no later than March 31, 1994;

(3) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

(4)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) may sell, exchange, or lease real or personal property and securities or obligations; and

(6) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved.

(20 U.S.C. 1132c–4) Enacted July 23, 1992, P.L. 102–325, sec. 704, 106 Stat. 745; amended December 20, 1993, P.L. 103–208, sec. 2(j)(16), 107 Stat. 2481.

SEC. 726. PROHIBITION.

No institution that receives a loan under this part shall also receive a grant under part A of this title.

(20 U.S.C. 1132c–5) Enacted July 23, 1992, P.L. 102–325, sec. 704, 106 Stat. 746; amended December 20, 1993, P.L. 103–208, sec. 2(j)(17), 107 Stat. 2481.

SEC. 727. HBCU CAPITAL FINANCING ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board (hereinafter in this part referred to as the "Advisory Board") which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

(b) BOARD MEMBERSHIP.—

(1) COMPOSITION.—The Advisory Board shall be appointed by the Secretary and shall be composed of 9 members as follows:

(A) The Secretary or the Secretary's designee.

(B) Three members who are presidents of private historically Black colleges or universities.

(C) Two members who are presidents of public historically Black colleges or universities.

(D) The president of the United Negro College Fund, Inc.

(E) The president of the National Association for Equal Opportunity in Higher Education.

(F) The executive director of the White House Initiative on historically Black colleges and universities.

(2) TERMS.—The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that—

(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years;

(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

(C) a member may continue to serve after the expiration of a term until a successor is appointed.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out this section.

(20 U.S.C. 1132c-6) Enacted July 23, 1992, P.L. 102-325, sec. 704, 106 Stat. 746.

SEC. 728. MINORITY BUSINESS ENTERPRISE UTILIZATION.

In the performance of and with respect to the Secretary's effectuation of his responsibilities under section 725(1) and to the maximum extent feasible in the implementation of the purposes of this part, minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized.

(20 U.S.C. 1132c-7) Enacted July 23, 1992, P.L. 102-325, sec. 704, 106 Stat. 747.

PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC, HOUSING, AND OTHER EDUCATIONAL FACILITIES[1]

SEC. 731. FEDERAL ASSISTANCE IN THE FORM OF LOANS.

(a) AUTHORITY AND CONDITIONS FOR LOANS.—To assist institutions of higher education and higher education building agencies in the construction, reconstruction, or renovation of housing, undergraduate and graduate academic facilities, and other educational facilities for students and faculty, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title; and

(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

(b) AMOUNT AND CONDITIONS OF LOANS.—A loan to institutions of higher education or higher education building agency—

(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

(2) shall be secured in such manner and be repaid within such period, not exceeding 50 years, as may be determined by the Secretary; and

(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury.

(c) USE OF LOANS FOR PREVIOUSLY MADE CONTRACTS.—Any institution of higher education or higher education building agency which, prior to October 17, 1986, had contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this part, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to such date, or completed prior to the filing of an application under this part.

(d) MATCHING REQUIREMENT.—The Secretary shall not make a loan under this part unless the institution of higher education or higher education building agency receiving such loan provides from non-Federal sources at least 20 percent of the development cost of the project for which the loan is made.

(20 U.S.C. 1132d) Enacted October 3, 1980, P.L. 96–374, sec. 701, 94 Stat. 1475; amended October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1525; amended June 3, 1987, P.L. 100–50, sec. 19(3), 101 Stat. 360; amended July 23, 1992, P.L. 102–325,

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[1] This program was orginally enacted October 17, 1986 as part F of title VII of the Act (P.L. 99–498, sec. 701, 100 Stat. 1533).

sec. 705, 106 Stat. 747; amended December 20, 1993, P.L. 103–208, sec. 2(j)(18) and (19), 107 Stat. 2481.

SEC. 732. GENERAL PROVISIONS.

(a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

(6) obtain insurance against loss in connection with property and other assets held;

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(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part, granting to a borrower of a loan made before October 1, 1992, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1986, and (C) made on a loan that has been outstanding for at least 5 years; and

(8) include in any contract or instrument made pursuant to this part such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

(d) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (c)(7) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

(e) NONDISCRIMINATION BETWEEN BORROWERS IN OFFERING DISCOUNTED PREPAYMENT.—

(1) GENERAL RULE.—If the Secretary offers a discount as an inducement to early repayment under subsection (c)(7), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1992, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

(2) APPLICABILITY.—The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

(f) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

(g) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

(h) WAGE RATES.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors on any project assisted under this part—

(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in ac-

cordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and

(2) shall be employed not more than 40 hours in any one week unless the employee receives wages for the employee's employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which the employee is employed,

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

(i) LIMITATION.—No loan may be made under this part for any facility on the campus of any postsecondary educational institution until 5 years after the date on which a previous loan for another facility on such campus was made under this part, unless the loan is intended to be used to construct or reconstruct a facility damaged as a result of a national disaster, as declared by the President.

(20 U.S.C. 1132d–1) Enacted October 3, 1980, P.L. 96–374, sec. 701, 94 Stat. 1475; amended October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1526; amended July 18, 1988, P.L. 100–369, sec. 7(c), 102 Stat. 837; amended July 23, 1992, P.L. 102–325, sec. 705, 106 Stat. 748.

SEC. 733. APPORTIONMENT.

(a) LIMITATION.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State.

(b) PRIORITIES.—In awarding loans under this part, the Secretary shall give priority—

(1) to loans for renovation or reconstruction of undergraduate and graduate academic facilities; and

(2) to loans for renovation or reconstruction of older undergraduate and graduate academic facilities that have gone without major renovation or reconstruction for an extended period.

(20 U.S.C. 1132d–2) Enacted October 3, 1980, P.L. 96–374, sec. 701, 94 Stat. 1476; amended October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1527; amended June 3, 1987, P.L. 100–50, sec. 19(4), 101 Stat. 360; amended July 23, 1992, P.L. 102–325, sec. 705, 106 Stat. 750.

SEC. 734. DEFINITIONS.

For the purpose of this part:

(a) HOUSING.—The term "housing" means—

(1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

(2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

(b) EDUCATIONAL INSTITUTION.—The term "institution of higher education or higher education building agency" means—

(1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a 2-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

(B) any public educational institution which—

(i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

(ii) offers technical or vocational instruction; and

(iii) provides residential facilities for some or all of the students receiving such instruction;

(2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

(A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in paragraph (1) without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 731 (as such section was in effect prior to the date of enactment of the Higher Education Amendments of 1992), will pass to such institution (or to any one or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

(4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in paragraph (1), but nothing in this paragraph shall require an institution included in paragraph (1) to obtain loans or grants through any instrumentality included in this paragraph; and

(5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in paragraph (1).

In the case of any loan made under section 731 (as such section was in effect prior to the date of enactment of the Higher Education Amendments of 1992) to a corporation described in paragraph (3) which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in paragraph (5), and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

(c) UNDERGRADUATE AND GRADUATE ACADEMIC FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the term "undergraduate and graduate academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing at least a 2-year program acceptable for full credit toward a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds under this part shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by individuals with disabilities.

(2) EXCEPTIONS.—The term "undergraduate and graduate academic facilities" shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part, (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

(d) DEVELOPMENT COST.—The term "development cost" means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing, academic facilities, or other educational facilities, except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

(e) FACULTY.—The term "faculty" means members of the faculty and their families.

(f) OTHER EDUCATIONAL FACILITIES.—The term "other educational facilities" means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

(20 U.S.C. 1132d–3) Enacted July 23, 1992, P.L. 102–325, sec. 705, 106 Stat. 751; amended December 20, 1993, P.L. 103–208, sec. 2(j)(20), 107 Stat. 2481.

SEC. 735. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1132d–4) Enacted July 23, 1992, P.L. 102–325, sec. 705, 106 Stat. 753.

PART D—COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION [1]

SEC. 751. CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION.

(a) PURPOSE.—The Congress hereby declares that it is the purpose of this part to authorize participation of the United States Government and the Student Loan Marketing Association in a private, for profit corporation to be known as the College Construction Loan Insurance Association (hereinafter referred to as the "Corporation") which will, directly or indirectly, alone or in collaboration with others—

(1) guarantee, insure, and reinsure bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose;

(2) guarantee and insure leases of personal, real, or mixed property to be used for an education facilities purpose; and

(3) issue letters of credit and undertake obligations and commitments as the Corporation deems necessary to carry out the purposes described in paragraphs (1) and (2).

(b) STATUS AS NON-GOVERNMENTAL ENTITY.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a "Government corporation" nor a "Government controlled corporation" as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(c) CORPORATE POWERS AND LIMITATIONS.—The Corporation shall be subject to the provisions of this part and, to the extent not inconsistent with this part, to the District of Columbia Business Corporation Act. The business activities of the Corporation shall always be limited to the purposes set forth in subsection (a) of this section. It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto.

(d) DEFINITION OF EDUCATION FACILITIES PURPOSE.—As used in this section, an "education facilities purpose" includes any activity (including activities related to the payment of financing or transaction costs) relating to the construction, reconstruction, renovation, acquisition, or purchase of (1) education, training, or research facilities or housing for students, faculty, or staff, (2) any underlying real property or any interest therein, (3) furniture, fixtures, and equipment to be used in connection with any education or training facility or housing for students, faculty, or staff, and (4) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

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[1] This program was originally enacted on Oct. 17, 1986, as part E of title VII of the Act (P.L. 99–498, sec. 701, 100 Stat. 1528).

(20 U.S.C. 1132f) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1528; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 752. CRITERIA FOR GUARANTEES AND INSURANCE.

(a) GENERAL RULE.—The Corporation shall provide direct insurance, guarantees, and reinsurance on obligations issued for education facilities purposes only in accordance with the requirements of this section.

(b) ALLOCATION OF REINSURANCE CAPACITY.—

(1) At least the percentages specified in paragraph (2) of the aggregate dollar amount of bond and debenture issues reinsured by the Corporation shall be issues which, without insurance, are listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

(2) For the purpose of paragraph (1) of this subsection, the percentages specified in this paragraph shall be—

(A) 10 percent for the first full year of operation of the Corporation;

(B) 30 percent for the second full year of such operation; and

(C) 50 percent for the third full year of such operation and thereafter.

(3) No bond or debenture issue which is both reinsured and directly insured by the Corporation may be counted toward the fulfillment of the requirements of paragraph (1).

(c) DIRECT INSURANCE AND GUARANTEE ACTIVITIES; LIMITATIONS.—

(1) All of the assets and obligations directly covered by primary insurance or guarantees issued by the Corporation shall be assets or obligations of institutions which are, without insurance or guarantee, listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

(2) At least the percentages specified in paragraph (3) of the aggregate dollar amount of the assets and obligations reinsured, insured, and guaranteed by the Corporation under this section shall be in the direct insurance and guarantee activities specified in this subsection.

(3) For the purpose of paragraph (2) of this paragraph, the percentages specified in this paragraph shall be—

(A) 10 percent for the first full year of operation of the Corporation;

(B) 30 percent for the second full year of such operation; and

(C) 50 percent for the third full year of such operation and thereafter.

(4) For the purpose of paragraph (1), the assets and obligations which may be directly covered by primary insurance or guarantees issued by the Corporation are—

(A) bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose; and

(B) leases of personal, real, or mixed property to be used for an education facilities purpose.

(5) Notwithstanding paragraph (1), the Corporation may issue primary insurance or guarantees covering the assets or obligations of institutions which are, without insurance or guarantee, listed by a nationally recognized statistical rating organization at or above the third highest rating of such organization, subject to all of the following conditions and limitations:

(A) The proposed transaction shall have been declined for coverage by all unaffiliated monoline insurers that are authorized to write financial guarantee insurance and that, in the previous year, provided primary insurance or guarantees on educational facility obligations. The Secretary shall publish by January 31 of each year a list of all such insurers.

(B) Within 2 business days of receiving complete documentation concerning a proposed transaction by an institution seeking insurance from the Corporation pursuant to this paragraph (5), an insurer shall offer to provide coverage or execute an affidavit of declination, or its failure to respond shall be deemed a declination. The institution seeking insurance from the Corporation shall file with the Corporation the affidavits from all declining insurers, as well as an affidavit of the institution's financial advisor specifically identifying the pertinent terms of the proposed transaction, the requested insurance coverage, and the date on which complete documentation concerning the proposed transaction was submitted to each insurer and certifying that such information was provided to each insurer that declined coverage.

(C) The proceeds of the assets or obligations insured or guaranteed by the Corporation pursuant to this paragraph shall be used exclusively for the renovation, repair, replacement, or construction of academic and educational facilities and shall not be used for the renovation, repair, replacement, or construction of athletic facilities.

(D) The aggregate par value of assets and obligations insured or guaranteed by the Corporation under this paragraph (5) shall not exceed—

(i) $100,000,000 per year during calendar years 1993, 1994, and 1995; or

(ii) $150,000,000 per year during calendar years 1996 and 1997.

(E) The aggregate dollar amount of transactions under this paragraph (5) shall not exceed—

(i) in calendar year 1993, 1994, or 1995, 10 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year; or

(ii) in calendar year 1996 or 1997, 15 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year.

(d) NOTICE OF SERVICES.—The Corporation shall take such steps as may be necessary to publicize the availability of its insurance and reinsurance programs under this section in a manner that assures that information concerning such programs will be available to each eligible institution.

(e) NONDISCRIMINATION REQUIRED.—

(1) The Corporation may not carry out any activities with respect to any educational facilities purpose of a participating institution if the institution discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition.

(2) The prohibition with respect to religion shall not apply to an educational institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(3) Each participating institution shall certify to the Corporation that the institution does not discriminate as required by the provisions of paragraph (1).

(20 U.S.C. 1132f–1) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1529; amended July 23, 1992, P.L. 102–325, sec. 707(b), 106 Stat. 754; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 753. PROCESS OF ORGANIZATION.

The Secretary of the Treasury, the Secretary, and the Student Loan Marketing Association shall each appoint 2 persons to be incorporators of the Corporation. If either the Secretary of the Treasury or the Secretary fail to appoint incorporators within 90 days after the date of enactment of the Higher Education Amendments of 1986, the Student Loan Marketing Association, after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, shall have the authority to name the incorporators which have not been so appointed. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

(20 U.S.C. 1132f–2) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1530; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 754. OPERATION AND ELECTION OF BOARD OF DIRECTORS.

(a) IN GENERAL.—The Corporation shall have a Board of Directors which shall consist of 11 members, of whom one shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of one year or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds. Two Directors shall be appointed by the Secretary of the Treasury; 2 Directors shall be appointed by the Secretary; 3 Directors shall be appointed by the Student Loan Marketing Association; and the remaining 4 Directors shall be elected by the holders of the Corporation's voting common stock at least one of whom shall be a college or university administrator. The failure of the Secretary or the Secretary of the Treasury to make any one or more appointments to the Board of Directors of the Corporation shall not affect or diminish the right and power of (1) the other directors who have been appointed or elected to assume and carry out their duties as directors and (2) the Board so constituted to act for all purposes as the full Board of the Corporation.

(b) CUMULATIVE VOTING.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–327(d)).

(20 U.S.C. 1132f–3) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1531; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 755. INITIAL CAPITAL.

(a) AUTHORITY TO ISSUE COMMON STOCK.—The Corporation shall issue shares of voting common stock of no par value at such time within 6 months of its incorporation as shall be designated by the initial Board of Directors, and from time to time thereafter.

(b) SUBSCRIPTION BY SECRETARY.—The Secretary is authorized and directed to subscribe to and purchase, in each of the 5 years following the incorporation of the Corporation, voting common stock of the Corporation having an aggregate purchase price of not more than $20,000,000, subject to availability of appropriations.

(c) SUBSCRIPTION BY ASSOCIATION.—The Student Loan Marketing Association is authorized to subscribe to and purchase during the 5 years following the incorporation of the Corporation voting common stock of the Corporation having an aggregate purchase price of $25,000,000 or more.

(d) ANNUAL ISSUANCE.—The Corporation is authorized to offer for subscription and purchase to the general public during the 5 years following the incorporation of the Corporation, voting common stock having an aggregate purchase price of $125,000,000. Not less than 40 percent of such stock shall be set aside for purchase by institutions of higher education prior to being offered to the general public.

(20 U.S.C. 1132f–4) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1531; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 756. ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC.

The Corporation may issue, without limitation as to amount or restriction as to ownership, such nonvoting common, preferred, and preference stock, debt, and such other securities and obligations, in such amounts, at such times, and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors.

(20 U.S.C. 1132f–5) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1532; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 757. OBLIGATIONS NOT FEDERALLY GUARANTEED; NO FEDERAL PRIORITY.

No obligation which is insured, guaranteed, or otherwise backed by the Corporation, shall be deemed to be an obligation which is guaranteed by the full faith and credit of the United States. No obligation which is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation which is guaranteed by the Student Loan Marketing Association. This section shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(20 U.S.C. 1132f–6) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1532; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 758. AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL.

(a) AUTHORITY TO SELL.—The Secretary may, at any time after a date which is 5 years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Student Loan Marketing Association at the price determined pursuant to subsection (b). Not later than 30 days prior to the sale of such stock, the Secretary shall advise, in writing, the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of plans of the Secretary.

(b) PURCHASE PRICE.—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase. In no event shall the purchase price be less than the original issuance price.

(c) BOARD OF DIRECTORS ELECTED AFTER MAJORITY BUY-OUT.—If the Student Loan Marketing Association acquires from the Secretary sufficient voting common stock so as to own more than 50 percent of the issued and outstanding voting common stock of the Corporation, section 754 (except subsection (b)) shall be of no further force or effect and the Board of Directors of the Corporation shall thereafter be elected entirely by the voting common shareholders.

(d) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Student Loan Marketing Association acquires all of the voting common stock owned by the Secretary, the Student Loan Marketing Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

(e) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Student Loan Marketing Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Student Loan Marketing Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 755 and 756, and arrangements for the provision of management and other services to the Corporation, as shall be approved by the Student Loan Marketing Association and the Corporation.

(20 U.S.C. 1132f–7) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1532; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 759. USE OF STOCK SALE PROCEEDS.

The proceeds received by the Secretary upon the sale of any shares of the Corporation to the Student Loan Marketing Association or any other person shall be deposited in the general fund of the Treasury.

(20 U.S.C. 1132f–8) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1533; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 760. AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS.

(a) ACCOUNTING.—The books of account of the Corporation shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(b) REPORTS.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this part, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a). The annual reports shall include such information and other evidence as is necessary to demonstrate that the Corporation has complied with the requirements of section 752.

(20 U.S.C. 1132f–9) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1533; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

PART E—GENERAL [1]

SEC. 781. RECOVERY OF PAYMENTS.

(a) PUBLIC BENEFIT.—The Congress declares that, if a facility constructed with the aid of a grant under part A of this title, or part B of this title as such part was in effect prior to the enactment of the Higher Education Amendments of 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of this title, or part B of this title as such part was in effect prior to the enactment of the Higher Education Amendments of 1992—

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[1] This part was originally enacted Oct. 17, 1986 as part H of title VII of the Act (P.L. 99–498, sec. 701, 100 Stat. 1542).

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility", unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(20 U.S.C. 1132i) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1542; amended July 23, 1992, P.L. 102–325, sec. 708(b), 106 Stat. 754; amended December 20, 1993, P.L. 103–208, sec. 2(j)(21), (m), 107 Stat. 2481, 2486.

SEC. 782. DEFINITIONS.

The following definitions apply to terms used in this title:

(1)(A) Except as provided in subparagraph (B), the term "academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For the purpose of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of students and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(B) The term "academic facilities" shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 701 of the Public Health Service Act, or a school of nursing as defined in section 853 of that Act, except that the term "academic facilities" may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v).

(2)(A) The term "construction" means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purpose of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed in connection with construction; and the terms "equipment", "initial equipment", and "built-in equipment", shall be more particularly defined by the Secretary by regulation.

(B) The term "reconstruction or renovation" means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purpose of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms "equipment", "initial equipment", and "built-in equipment" shall be more particularly defined by the Secretary by regulation; and the term "rehabilitation, alteration, conversion, or improvement" includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

(3)(A) The term "development cost", with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility not to exceed 1 percent of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

(4) The term "maintenance", with respect to instructional and research equipment obtained with funding under this title, shall mean the care necessary to the optimal functioning of such equipment. With respect to the equipment and structural changes related to obtaining and sustaining the necessary environment (ventilation, etc.) for proper functioning of instructional and research equipment, "maintenance" shall mean that portion of care above and beyond normal overhead costs.

(5) The term "higher education building agency" means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

(6) The term "public educational institution" does not include a school or institution of any agency of the United States.

(7) The term "State" includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1132i–1) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1542; amended June 3, 1987, P.L. 100–50, sec. 19(6), 101 Stat. 360; amended July 23, 1992, P.L. 102–325, sec. 708(c), 106 Stat. 754; amended December 20, 1993, P.L. 103–208, sec. 2(j)(22), (m), 107 Stat. 2481, 2486.

SEC. 783. FORGIVENESS OF CERTAIN LOANS.

(a) FORGIVENESS AUTHORIZED.—The Secretary may forgive the entire balance due, or any portion thereof, on any loan made under part C or part F of this title (as in effect on the day before the date of enactment of the Higher Education Amendments of 1992), or under the College Housing and Academic Facilities Loan program, or any other federally subsidized, insured, or authorized loan program designed to assist institutions of higher education to construct academic or dormitory facilities, whenever the Secretary determines that—

(1) the institution of higher education is current in its payments to the Department or has entered into a moratorium agreement with the Secretary with respect to such payments; and

(2) the outstanding indebtedness on all such loans owed by such institution equals at least one-quarter of the annual budget for the most recent fiscal year of the institution of higher education seeking forgiveness of its housing loan indebtedness, exclusive of funds provided under titles III and IV of this Act, and in the judgment of the Secretary the survival of the institution of higher education is threatened.

(b) DEFINITION.—For the purpose of this section the term "institution of higher education" includes a postsecondary educational institution.

(c) APPLICATION.—Each institution of higher education requesting forgiveness of any loan under this section shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information, as the Secretary may reasonably require.

(d) REDUCTION OF AMOUNTS OWED TO TREASURER.—If the Secretary forgives all or part of a loan described in subsection (a), the outstanding balance remaining on the notes of the Secretary that were issued to the Secretary of the Treasury under section 761(d) as in effect prior to the enactment of the Higher Education Amendments of 1992, or under any provision of this title as in effect at the time such note was issued, shall be reduced by such amount forgiven.

(20 U.S.C. 1132i–2) Enacted October 17, 1986, P.L. 99–498, sec. 701, 100 Stat. 1545; amended December 22, 1987, P.L. 100–203, sec. 3101, 101 Stat. 1330–39; amended July 23, 1992, P.L. 102–325, sec. 708(d), 106 Stat. 754; amended December 20, 1993, P.L. 103–208, sec. 2(j)(23), (m), 107 Stat. 2480–81, 2486.

TITLE VIII—COOPERATIVE EDUCATION

SEC. 801. STATEMENT OF PURPOSE; DEFINITION.

(a) PURPOSE.—It is the purpose of this title to award grants to institutions of higher education or combinations of such institutions to encourage such institutions to develop and make available to as many of their students as possible work experience that will aid such students in future careers and will enable such students to support themselves financially while in school.

(b) DEFINITION.—For the purpose of this title the term "cooperative education" means the provision of alternating or parallel periods of academic study and public or private employment in order to give students work experiences related to their academic or occupational objectives and an opportunity to earn the funds necessary for continuing and completing their education.

(20 U.S.C. 1133) Enacted October 16, 1968, P.L. 90–575, sec. 251, 82 Stat. 1042; amended June 23, 1972, P.L. 92–318, sec. 172, 86 Stat. 304; amended October 12, 1976, P.L. 94–482, sec. 129(b), 90 Stat. 2144, 2145; amended October 3, 1980, P.L. 96–374, secs. 801 (a), (b), 1391, 94 Stat. 1481, 1482, 1503; amended October 17, 1986, P.L. 99–498, sec. 801, 100 Stat. 1546; amended July 23, 1992, P.L. 102–325, sec. 801, 106 Stat. 755.

SEC. 802. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS.

(a) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this title $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) RESERVATIONS.—Of the amounts appropriated in each fiscal year the Secretary shall reserve such amount as is necessary to make continuing awards to institutions of higher education that were, on the date of enactment of the Higher Education Amendments of 1992, operating an existing cooperative education program under a multiyear project award and to continue to pay to such institutions the Federal share in effect on the day before such date of enactment. Of the remainder of the amount appropriated in such fiscal year—

(1) not less than 50 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions described in section 803(a)(1)(A) for cooperative education under section 803;

(2) not less than 25 percent shall be available for carrying out grants to institutions of higher education described in section 803(a)(1)(B) for cooperative education under section 803;

(3) not to exceed 11 percent shall be available for demonstration projects under paragraph (1) of section 804(a);

(4) not to exceed 11 percent shall be available for training and resource centers under paragraph (2) of section 804(a); and

(5) not to exceed 3 percent shall be available for research under paragraph (3) of section 804(a).

(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

(20 U.S.C. 1133a) Enacted Oct. 16, 1968, P.L. 90–575, sec. 251, 82 Stat. 1043; amended June 23, 1972, P.L. 92–318, sec. 171, 86 Stat. 304; amended October 12,

1976, P.L. 94–482, sec. 129(b), 90 Stat. 2145, 2146; amended October 3, 1980, P.L. 96–374, secs. 801(c), (d), 1391, 94 Stat. 1482, 1503; amended October 17, 1986, P.L. 99–498, sec. 801, 100 Stat. 1546; amended July 23, 1992, P.L. 102–325, sec. 801, 106 Stat. 755; amended December 20, 1993, P.L. 103–208, sec. 2(j)(24), 107 Stat. 2482.

SEC. 803. GRANTS FOR COOPERATIVE EDUCATION.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized—

(A) from the amount available under section 802(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education or combinations of such institutions that have not received a grant under this paragraph in the 10-year period preceding the date for which a grant under this section is requested to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions; and

(B) from the amount available under section 802(b)(2) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education that are operating an existing cooperative education program as determined by the Secretary to pay the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions.

(2) PROGRAM REQUIREMENT.—Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving students work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

(3) AMOUNT OF GRANTS.—(A) The amount of each grant awarded pursuant to paragraph (1)(A) to any institution of higher education or combination of such institutions in any fiscal year shall not exceed $500,000.

(B)(i) Except as provided in clauses (ii) and (iii), the Secretary shall award grants in each fiscal year to each institution of higher education described in paragraph (1)(B) that has an application approved under subsection (b) in an amount which bears the same ratio to the amount reserved pursuant to section 802(b)(2) for such fiscal year as the number of unduplicated students placed in cooperative education jobs during the preceding fiscal year (other than cooperative education jobs under section 804 and as determined by the Secretary) by such institution of higher education bears to the total number of all such students placed in such jobs during the preceding fiscal year by all such institutions.

(ii) No institution of higher education shall receive a grant pursuant to paragraph (1)(B) in any fiscal year in an amount which exceeds 25 percent of such institution's cooperative education program's personnel and operating budget for the preceding fiscal year.

(iii) The minimum annual grant amount which an institution of higher education is eligible to receive under paragraph (1)(B) is $1,000 and the maximum annual grant amount is $75,000.

(4) LIMITATION.—The Secretary shall not award grants pursuant to paragraphs (1)(A) and (1)(B) to the same institution of higher education or combination of such institution in any one fiscal year.

(5) USES.—Grants under paragraph (1)(B) shall be used exclusively—

(A) to expand the quality and participation of a cooperative education program;

(B) for outreach in new curricular areas; and

(C) for outreach to potential participants including underrepresented and nontraditional populations.

(b) APPLICATIONS.—Each institution of higher education or combination of such institutions desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

(1) set forth the program or activities for which a grant is authorized under this section;

(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

(4) describe the plans which the applicant will carry out to assure, and contain a formal statement of the institution's commitment which assures, that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1) at a level which is not less than the total amount expended for such program during the first year such program was assisted under this section;

(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate or associate degree candidates and who carry at least one-half the normal full-time academic workload;

(6) provide that the applicant will—

(A) make such reports as may be essential to ensure that the applicant is complying with the provisions of this section, including the reports for the second and each succeeding fiscal year for which the applicant receives a grant with respect to the impact of the cooperative education program in the previous fiscal year, including—

(i) the number of unduplicated student applicants in the cooperative education program;

(ii) the number of unduplicated students placed in cooperative education jobs;

(iii) the number of employers who have hired cooperative education students;

(iv) the income for students derived from working in cooperative education jobs; and

(v) the increase or decrease in the number of unduplicated students placed in cooperative education jobs in each fiscal year compared to the previous fiscal year; and

(B) keep such records as are essential to ensure that the applicant is complying with the provisions of this title, including the notation of cooperative education employment on the student's transcript;

(7) describe the extent to which programs in the academic discipline for which the application is made have had a favorable reception by public and private sector employers;

(8) describe the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit;

(9) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period;

(10) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title;

(11) demonstrate a commitment to serving special populations such as women, individuals with disabilities, and African American, Mexican-American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), and Northern Marianian students; and

(12) include such other information as is essential to carry out the provisions of this title.

(c) DURATION OF GRANTS; FEDERAL SHARE.—

(1) DURATION OF GRANTS.—No individual institution of higher education may receive, individually or as a participant in a combination of such institutions—

(A) a grant pursuant to subsection (a)(1)(A) for more than 5 fiscal years; or

(B) a grant pursuant to subsection (a)(1)(B) for more than 5 fiscal years.

(2) FEDERAL SHARE.—The Federal share of a grant under section 803(a)(1)(A) may not exceed—

(A) 85 percent of the cost of carrying out the program or activities described in the application in the first year the applicant receives a grant under this section;

(B) 70 percent of such cost in the second such year;

(C) 55 percent of such cost in the third such year;

(D) 40 percent of such cost in the fourth such year; and

(E) 25 percent of such cost in the fifth such year.

(3) SPECIAL RULE.—Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

(d) MAINTENANCE OF EFFORT.—If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort described in subsection (b)(3), then the Secretary may elect not to make grant payments under this section to such recipient.

(e) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—

(1) IN GENERAL.—In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education or combinations of such institutions for programs which show the greatest promise of success because of—

(A) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers;

(B) the strength of the commitment of the institution of higher education or combination of such institutions to cooperative education as demonstrated by the plans and formalized institutional commitment statement which such institution or combination has made to continue the program after the termination of Federal financial assistance,

(C) the extent to which the institution or combination is committed to extending cooperative education for all students who can benefit, and

(D) such other factors as are consistent with the purposes of this section.

(2) ADDITIONAL SPECIAL CONSIDERATION.—The Secretary shall also give special consideration to applications from institutions of higher education or combinations of such institutions which demonstrate a commitment to serving special populations such as women, individuals with disabilities, and African American, Mexican-American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), and Northern Marianian students.

(20 U.S.C. 1133b) Enacted Oct. 16, 1968, P.L. 90–575, sec. 251, 82 Stat. 1043; amended October 12, 1976, P.L. 94–482, sec. 129(b), 90 Stat. 2146; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99–498, sec. 801, 100 Stat. 1548; amended July 23, 1992, P.L. 102–325, sec. 801, 106 Stat. 756; amended December 20, 1993, P.L. 103–208, sec. 2(j)(25) and (26), 107 Stat. 2482.

SEC. 804. DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH.

(a) AUTHORIZATION.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 802(b)(3);

(2) the conduct of training and resource centers designed to—

(A) train personnel in the field of cooperative education;

(B) improve materials used in cooperative education programs if such improvement is conducted in conjunction with other activities described in this paragraph;

(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need;

(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with one or more institutions of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs; and

(F) encourage model cooperative education programs in the fields of science and mathematics for women and minorities who are underrepresented in such fields

from the amounts available in each fiscal year under section 802(b)(4); and

(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 802(b)(5).

(b) ADMINISTRATIVE PROVISION.—

(1) IN GENERAL.—To carry out this section, the Secretary may—

(A) make grants to or contracts with institutions of higher education, or combinations of such institutions; and

(B) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

(2) LIMITATION.—(A) The Secretary may not use more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(A).

(B) The Secretary may use not more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(B).

(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.

(20 U.S.C. 1133c) Enacted July 23, 1992, P.L. 102–325, sec. 801, 106 Stat. 759.

TITLE IX—GRADUATE PROGRAMS

SEC. 901. PURPOSE AND ADMINISTRATIVE PROVISIONS.

(a) Purpose.—It is the purpose of this title to—

(1) foster and support graduate and professional education;

(2) provide incentives and support for United States citizens to complete doctoral degree programs leading to academic careers, especially women and students from underrepresented groups; and

(3) provide support for students from underrepresented groups to complete masters and professional degree programs.

(b) Administrative Provisions.—

(1) Coordinated administration.—In carrying out the purposes of this title, the Secretary shall provide for coordinated administration and regulation of graduate programs under this title to ensure that the programs are carried out in a manner most compatible with academic practices.

(2) Hiring authority.—For purposes of carrying out this title, the Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such title. Such employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) Use for religious purposes prohibited.—No fellowship shall be awarded under this title for study at a school or department of divinity.

(20 U.S.C. 1134) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 760; amended December 20, 1993, P.L. 103–208, sec. 2(j)(27), 107 Stat. 2482.

PART A—GRANTS TO INSTITUTIONS AND CONSORTIA TO ENCOURAGE WOMEN AND MINORITY PARTICIPATION IN GRADUATE EDUCATION

SEC. 911. GRANTS AUTHORIZED.

The Secretary shall make grants to institutions of higher education and consortia of such institutions to enable such institutions and consortia—

(1) to identify talented undergraduate students who—

(A) demonstrate financial need; and

(B) are individuals from minority groups underrepresented in graduate education or are women underrepresented in fields of study in graduate education such as the fields of science and mathematics; and

(2) to provide such students with an opportunity to participate in a program of research and scholarly activities at such institutions or consortia designed to provide such students with effective preparation for graduate study in such fields or related fields.

(20 U.S.C. 1134a) Enacted June 23, 1972, P.L. 92–318, sec. 181(a), 86 Stat. 304; amended October 12, 1976, P.L. 94–482, sec. 171(a)(1), (a)(2), 90 Stat. 2159; amended October 3, 1980, P.L. 96–374, secs. 901(a), 1391, 94 Stat. 1482, 1503; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1549; renumbered and amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 760.

SEC. 912. SUBMISSION AND CONTENTS OF APPLICATION.

(a) REQUIRED INFORMATION.—Each institution of higher education or consortium desiring assistance under this part shall submit an application to the Secretary in such form and containing such information as the Secretary may by regulation prescribe. Each such application shall provide information regarding—

(1) the program of study, to take the form of summer research internships, seminars, and other educational experiences;

(2) the institution's or consortium's plan for identifying and recruiting talented women and minority undergraduates, especially those interested in entering fields in which such women and minority undergraduates are underrepresented;

(3) the participation of faculty in the program and a detailed description of the research in which students will be involved;

(4) a plan for the evaluation of the effectiveness of the program; and

(5) such other assurances and information as the Secretary may require by regulation.

(b) SELECTION REQUIREMENTS.—In making awards to institutions and consortia—

(1) the Secretary shall consider the quality of the research in which students will be involved as well as the recruitment program and program of study; and

(2) the Secretary shall ensure an equitable geographic distribution among public and private institutions of higher education and consortia.

(20 U.S.C. 1134b) Enacted June 23, 1972, P.L. 92–318, sec. 181(a), 86 Stat. 304; amended October 12, 1976, P.L. 94–482, sec. 171(a)(1), (a)(2), 90 Stat. 2159; amended October 3, 1980, P.L. 96–374, secs. 901(a), 1391, 94 Stat. 1482, 1503; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1549; renumbered and amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 760.

SEC. 913. USE OF FUNDS.

Awards made to institutions or consortia under this part shall be used exclusively to provide direct fellowship aid which may include need-based stipends, room and board costs, transportation costs, and tuition for courses for which credit is given by the institution or consortium as approved by the Secretary.

(20 U.S.C. 1134c) Enacted June 23, 1972, P.L. 92–318, sec. 181(a), 86 Stat. 304; amended October 12, 1976, P.L. 94–482, sec. 171(a)(1), (a)(2), 90 Stat. 2159; amended October 3, 1980, P.L. 96–374, secs. 901(a), 1391, 94 Stat. 1482, 1503; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1549; renumbered and amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 760.

SEC. 914. INFORMATION COLLECTION.

In order to assist institutions of higher education or consortia to identify talented women and minority undergraduates for graduate study, institutions or consortia receiving awards under this part shall provide to the Secretary such information as the Secretary determines is necessary to carry out this section. With respect to students participating in a summer internship under this part, the Secretary shall collect information submitted by such institutions or consortia, such as the students' names, addresses, and institutions attended for undergraduate study. The Secretary shall, subject to the authorization of each student, make the information available to institutions of higher education or consortia offering graduate programs seeking to identify talented women and minority undergraduates for graduate study.

(20 U.S.C. 1134c–1) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 762.

SEC. 915. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1134c–2) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 762.

PART B—PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAM

SEC. 921. STATEMENT OF PURPOSE; DESIGNATION.

(a) PURPOSE.—It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of master's level, professional, and doctoral education programs to individuals from minority groups and women who are underrepresented in such programs.

(b) DESIGNATION.—Each recipient of such an award under this part shall be known as a "Patricia Roberts Harris Graduate Fellow".

(20 U.S.C. 1134d) Enacted June 30, 1972, P.L. 92–318, sec. 181(a), 86 Stat. 306; amended October 12, 1976, P.L. 94–482, sec. 171(b), 90 Stat. 2160; amended October 3, 1980, P.L. 96–374, sec. 902(a), 94 Stat. 1482; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1550; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 762.

SEC. 922. PROGRAM AUTHORIZED.

(a) GRANTS BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

(2) RESERVATIONS.—The Secretary shall reserve—

(A) 50 percent of the amount appropriated pursuant to the authority of section 924 to award grants to institutions of higher education to enable such institutions to make awards for master's level and professional study; and

(B) 50 percent of such amount to award grants to such institutions to enable such institutions to make awards for doctoral study.

(b) DISTRIBUTION AND AMOUNTS OF GRANTS.—

(1) EQUITABLE DISTRIBUTION.—In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

(2) REALLOTMENT.—Whenever the Secretary determines that an institution of higher education is unable to use all of

the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

(c) APPLICATIONS.—Any eligible institution of higher education offering a program of postbaccalaureate study leading to a master's level, professional, or doctoral degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

(d) SELECTION OF APPLICATIONS.—In making grants to institutions of higher education, the Secretary shall—

(1) take into account present and projected needs for highly trained individuals in academic career fields of high national priority;

(2) consider the need to prepare a larger number of women and individuals from minority groups, especially from among such groups which have been traditionally underrepresented in professional and academic careers requiring master's level, professional, or doctoral degrees, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area;

(3) take into account the need to expand access by women and minority groups to careers heretofore lacking adequate representation of women and minority groups; and

(4) take into account the success of the applicant in providing students with access to careers in which women and minority groups are underrepresented.

(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this part, a priority for awards is accorded to—

(1) individuals from minority groups and women who are pursuing master's level or professional study in fields in which they are underrepresented;

(2) individuals from minority groups and women who are pursuing master's level study leading to careers that serve the public interest; and

(3) women and individuals from traditionally underrepresented groups undertaking doctoral study, including those interested in entering the fields of science and mathematics.

(f) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

(i) $9,000 for the academic year 1993–1994; and

(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(20 U.S.C. 1134e) Enacted June 23, 1972, P.L. 92–318, sec. 181(a), 86 Stat. 306; amended October 12, 1976, P.L. 94–482, sec. 171(b), 90 Stat. 2160; amended October 3, 1980, P.L. 96–374, sec. 902(a), 94 Stat. 1482; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1550; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 763; amended December 20, 1993, P.L. 103–208, sec. 2(j)(28), 107 Stat. 2482.

SEC. 923. AWARD OF FELLOWSHIPS.

(a) AWARDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this part. The stipends the Secretary may establish shall reflect the purpose of this program to encourage students to undertake master's level, professional, and doctoral study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

(b) REQUIREMENTS FOR AWARDS.—

(1) MASTER'S OR PROFESSIONAL DEGREE.—No student enrolled in graduate study leading to a master's or professional degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed the normal period for completing the program in which the student is enrolled or a total of 3 years, whichever is less, except that the Secretary may provide by regulation for the granting of such fellowships for an additional period of study not to exceed one 12-month period, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a deter-

mination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.

(2) DOCTORAL DEGREE.—No student enrolled in graduate study leading to a doctoral degree shall receive an award under this part except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study, research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), or dissertation work in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work, provided that the student has attained satisfactory progress prior to the dissertation stage, except that the Secretary may provide by regulation for the granting of such fellowships for an additional period of study not to exceed one 12-month period, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient. The institution shall provide 2 years of support for each student following the years of Federal predissertation support under this part. Any student receiving an award for graduate study leading to a doctoral degree shall receive at least 1 year of supervised training in instruction during such student's doctoral program.

(3) CONTINUATION OF AWARDS UNDER PRIOR LAW.—Notwithstanding any other provision of law, in the case of an individual who was awarded a multiyear fellowship under this part before the date of enactment of the Higher Education Amendments of 1992, awards to such individual for the remainder of such fellowship may, at the discretion of the institution of higher education attended by such individual, be subject to the requirements of this subsection as in effect prior to such date of enactment. The institution shall be required to exercise such discretion at the time that its application to the Secretary for a grant under this part, and the amount of any such grant, are being considered by the Secretary.

(20 U.S.C. 1134f) Enacted June 23, 1972, P.L. 92–318, sec. 181(a), 86 Stat. 306, 307; amended October 12, 1976, P.L. 94–482, sec. 171(b), 90 Stat. 2160, 2161; amended October 3, 1980, P.L. 96–374, sec. 902(a), 94 Stat. 1484.; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1552; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 764; amended December 20, 1993, P.L. 103–208, sec. 2(j)(29)–(31), 107 Stat. 2482–83.

SEC. 924. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $60,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part. Notwithstanding any other provision of law, the Secretary may use funds appropriated pursuant to this section for fiscal year 1994 to make continuation awards under section 923(b)(3) to individuals who would have been eligible for such awards in fiscal year 1993 if such section had been in effect.

(20 U.S.C. 1134g) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 765; amended December 20, 1993, P.L. 103–208, sec. 2(j)(32), 107 Stat. 2483.

PART C—JACOB K. JAVITS FELLOWSHIP PROGRAM

SEC. 931. AWARD OF JACOB K. JAVITS FELLOWSHIPS.

(a) AUTHORITY AND TIMING OF AWARDS.—The Secretary is authorized to award fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. These fellowships shall be awarded to students intending to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is commonly accepted as the appropriate degree for a tenured-track faculty position in a baccalaureate degree-granting institution. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

(b) DESIGNATION OF FELLOWS.—Students receiving awards under this part shall be known as "Jacob K. Javits Fellows".

(c) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

(20 U.S.C. 1134h) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1484; amended Nov. 22, 1985, P.L. 99–159, 99 Stat. 908; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1552; amended June 3, 1987, P.L. 100–50, sec. 20(1), 101 Stat. 360; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 765; amended December 20, 1993, P.L. 103–208, sec. 2(j)(33), 107 Stat. 2483.

SEC. 932. ALLOCATION OF FELLOWSHIPS.

(a) FELLOWSHIP BOARD.—

(1) APPOINTMENT.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (hereinafter in this part referred to as the "Board") consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledge-

able about and have experience in graduate education in arts, humanities, and social sciences.

(2) DUTIES.—The Board shall—

(A) establish general policies for the program established by this part and oversee its operation;

(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(3) CONSULTATIONS.—In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institution, learned societies, and professional organizations.

(4) TERM.—The term of office of each member of the Board shall be 4 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) INITIAL MEETING; VACANCY.—The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6) QUORUM; ADDITIONAL MEETINGS.—(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

(7) COMPENSATION.—Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Board.

(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a graduate program at any accredited institution of higher education in which the recipient may decide to enroll.

(20 U.S.C. 1134i) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1485; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1553; amended June 3, 1987, P.L. 100–50, sec. 19(2)–(3), 101 Stat. 360; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 766; amended December 20, 1993, P.L. 103–208, sec. 2(j)(34) and (35), 107 Stat. 2483.

SEC. 933. STIPENDS.

(a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this part such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

(b) INSTITUTIONAL PAYMENTS.—

(1) IN GENERAL.—(A) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be—

(i) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

(ii) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

(I) $9,000 for the academic year 1993–1994; and

(II) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(2) SPECIAL RULES.—(A) Beginning March 1, 1992, any applicant for a fellowship under this part who has been notified in writing by the Secretary that such applicant has been selected to receive such a fellowship and is subsequently notified that the fellowship award has been withdrawn, shall receive such fellowship unless the Secretary subsequently makes a determination that such applicant submitted fraudulent information on the application.

(B) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this sub-

section shall not be reduced for any purpose other than the purposes specified under paragraph (1).

(20 U.S.C. 1134j) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1486; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1554; amended June 3, 1987, P.L. 100–50, sec. 19(4), 101 Stat. 360; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 767; amended December 20, 1993, P.L. 103–208, sec. 2(j)(36), 107 Stat. 2483–84.

SEC. 934. FELLOWSHIP CONDITIONS.

(a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(20 U.S.C. 1134k) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1486; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1554; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 767.

SEC. 935. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(20 U.S.C. 1134k–1) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 768.

PART D—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

SEC. 941. PURPOSE.

In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of this part to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need.

(20 U.S.C. 1134l) Enacted October 3, 1980, P.L. 96–374, sec. 904, 94 Stat. 1486; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1555; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 768; amended December 20, 1993, P.L. 103–208, sec. 2(j)(37), 107 Stat. 2484.

SEC. 942. GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS.

(a) GRANT AUTHORITY.—

(1) IN GENERAL.—The Secretary shall make grants to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this part.

(2) ADDITIONAL GRANTS.—The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and is exempt from tax under section 501(a) of such Code;

(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(C) is not a private foundation;

(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

(E) has necessary research resources not otherwise readily available in such institutions to such students.

(b) AWARD AND DURATION OF GRANTS.—

(1) AWARDS.—The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

(2) DURATION.—The Secretary shall approve a grant recipient under this part for a 3-year period. From the sums appropriated under this part for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $750,000 per fiscal year.

(3) REALLOTMENT.—Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this part.

(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—

(1) IN GENERAL.—The Secretary shall make new grant awards under this part only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2).

(2) RATABLE REDUCTION.—To the extent that appropriations under this part are insufficient to comply with paragraph

(1), available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2).

(20 U.S.C. 1134m) Enacted October 3, 1980, P.L. 96–374, sec. 904, 94 Stat. 1487; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1555; amended July 18, 1988, P.L. 100–369, sec. 7(c), 102 Stat. 837; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 768.

SEC. 943. INSTITUTIONAL ELIGIBILITY.

(a) ELIGIBILITY CRITERIA.—Any academic department or program of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this part. No department or program shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this part.

(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need, such as mathematics, biology, physics, chemistry, engineering, geosciences, computer science, or foreign languages and area studies. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support postbaccalaureate study in the area concerned.

(20 U.S.C. 1134n) Enacted October 3, 1980, P.L. 96–374, sec. 905, 94 Stat. 1487; renumbered and amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1556; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 769; amended December 20, 1993, P.L. 103–208, sec. 2(j)(38), 107 Stat. 2484.

SEC. 944. CRITERIA FOR APPLICATIONS.

(a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

(b) CONTENTS OF APPLICATIONS.—An academic department or program of an institution of higher education, in its application for a grant, shall—

(1) describe the current academic program of the applicant for which the grant is sought;

(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this part an amount equal to at least 25 percent of the amount of the grant received under this part;

(3) set forth policies and procedures to assure that, in making fellowship awards under this part the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

(4) set forth policies and procedures to assure that, in making fellowship awards under this part, the institution will make awards to individuals who—

(A) have financial need, as determined under criteria developed by the institution;

(B) have excellent academic records in their previous programs of study;

(C) plan teaching or research careers; and

(D) plan to pursue the highest possible degree available in their course of study;

(5) set forth policies and procedures to ensure that Federal funds made available under this part for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this part and in no case to supplant those funds;

(6) provide assurances that, in the event that funds made available to the academic department or program under this part are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic department or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

(7) provide that the applicant will comply with the limitations set forth in section 945;

(8) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students; and

(9) include such other information as the Secretary may prescribe.

(20 U.S.C. 1134o) Enacted October 3, 1980, P.L. 96–374, sec. 905, 94 Stat. 1488; renumbered and amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1556; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 770.

SEC. 945. AWARDS TO GRADUATE STUDENTS.

(a) COMMITMENTS TO GRADUATE STUDENTS.—

(1) IN GENERAL.—An academic department or program of an institution of higher education shall make commitments to graduate students (including students pursuing a doctoral degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

(2) SPECIAL RULE.—No such commitments shall be made to students under this part unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this part, or from institutional funds.

(b) AMOUNT OF STIPENDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this part. The stipends the Secretary establishes shall reflect the purpose of this program to encourage highly talented students to undertake graduate study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

(c) TREATMENT OF INSTITUTIONAL PAYMENTS.—An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this part in amounts that exceed the institutional payments made by the Secretary pursuant to section 946(a) may count such payments toward the amounts the institution is required to provide pursuant to section 944(b)(2).

(d) ACADEMIC PROGRESS REQUIRED.—Notwithstanding the provisions of subsection (a), no student shall receive an award—

(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or

(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

(20 U.S.C. 1134p) Enacted October 3, 1980, P.L. 96–374, sec. 905, 94 Stat. 1488; renumbered and amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1557; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 770; amended December 20, 1993, P.L. 103–208, sec. 2(j)(39), 107 Stat. 2484.

SEC. 946. ADDITIONAL ASSISTANCE FOR COST OF EDUCATION.

(a) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be—

(A) $6,000 annually with respect to individuals who first received fellowships under this part prior to academic year 1993–1994; and

(B) with respect to individuals who first receive fellowships during or after academic year 1993–1994—

(i) $9,000 for the academic year 1993–1994; and

(ii) for succeeding academic years, $9,000 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(2) The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this part may not be used for the general operational overhead of the academic department or program.

(20 U.S.C. 1134q) Enacted October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1558; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 771; amended December 20, 1993, P.L. 103–208, sec. 2(j)(40), 107 Stat. 2484.

SEC. 947. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(20 U.S.C. 1134q–1) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 771.

PART E—FACULTY DEVELOPMENT FELLOWSHIP PROGRAM

SEC. 951. FELLOWSHIPS AUTHORIZED.

(a) FELLOWSHIP PROGRAM AUTHORIZATION.—The Secretary shall make grants to institutions of higher education or consortia of such institutions and nonprofit organizations associated with institutions of higher education, with a demonstrated record of enhancing the access of individuals from underrepresented groups including African Americans, Asian Americans, Hispanic Americans, Native Americans, Pacific Islanders, and Native Hawaiians, to enable such institutions or consortia to—

(1) identify talented faculty from underrepresented groups who wish to—

(A) continue in the higher education professorate and obtain a doctoral degree; or

(B) participate in faculty professional development programs specifically designed to advance the careers of underrepresented minorities;

(2) identify talented baccalaureate degree recipients from underrepresented groups who have financial need and who wish to obtain a doctoral degree and enter the higher education professorate; and

(3) provide the individuals described in paragraphs (1) and (2) with a fellowship to assist such students in obtaining a doctoral degree or to participate in a faculty development program.

(b) GEOGRAPHIC DISTRIBUTION.—In awarding grants pursuant to subsection (a), the Secretary shall ensure—

(1) an equitable geographic distribution of such grants; and

(2) that both public and private institutions of higher education are fairly represented among the grant recipients.

(c) SPECIAL RULE.—

(1) EQUITABLE DISTRIBUTION.—Each institution of higher education or consortium receiving a grant under this part shall ensure that during the period of the grant there is an equitable distribution of fellowships under this part among underrepresented groups.

(2) CONSTRUCTION.—Nothing in this section shall be interpreted to require any institution of higher education or consortium to grant preference or disparate treatment to the members of one group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this part, in comparison with the total

number or percentage of individuals of such group in any community, State, section, or other area.

(d) WAIVER BY THE SECRETARY.—The Secretary may waive all or any portion of the requirement under subsection (b) upon application of any institution which is eligible for funds under title III of this Act, pursuant to criteria established by the Secretary by regulation.

(e) SELECTION REQUIREMENTS.—In awarding grants under subsection (a), the Secretary shall give priority to applications describing programs that—

(1) provide to each fellowship recipient—

(A) a tuition waiver; and

(B)(i) a minimum $2,000 stipend; or

(ii) additional financial support in conjunction with teaching or research activities that are part of such recipient's doctoral program;

(2) provide additional financial support to each fellowship recipient from non-Federal resources, either in cash or in kind, such as contributions from the business community and civic organizations;

(3) emphasize courses of study leading to the doctoral degrees in disciplines where minorities are underrepresented; and

(4) describe steps to ensure that a fellowship recipient will teach at an institution of higher education where minority undergraduate students are likely to benefit from the educational experience and academic achievement of such recipient.

(f) DESIGNATION.—Students receiving fellowship awards under this part shall be known as "Faculty Development Fellows".

(20 U.S.C. 1134r) Enacted October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1558; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 772; amended December 20, 1993, P.L. 103–208, sec. 2(j)(41), 107 Stat. 2484.

SEC. 952. FELLOWSHIPS.

Each institution of higher education or consortium receiving a grant under this part shall award fellowships in an amount equal to the amount awarded to National Science Foundation graduate fellowship recipients for that year, or an amount based on the financial need of the recipient (as determined by the institution in accordance with measurements of need approved by the Secretary) whichever is less.

(20 U.S.C. 1134r–1) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 773.

SEC. 953. APPLICATION.

(a) APPLICATION REQUIRED.—Each institution of higher education or consortium desiring a grant under this part shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may by regulation reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall contain—

(1) the institution of higher education's or consortium's plan for identifying and recruiting faculty and baccalaureate degree recipients who may participate in the program assisted under this part;

(2) a description of the program or programs of doctoral study that the institution of higher education or consortium plans to offer in the institution's doctoral program;

(3) the institution of higher education's or consortium's plan for using minority faculty and other faculty as advisors and academic resources in support of the program assisted under this part;

(4) a description of other resources of the institution of higher education or consortium, including tuition waivers, assistantships or financial aid other than loans, that such institution or consortium shall make available to fellowship recipients;

(5) a description of the method such institution or consortium shall use to determine a student's financial need;

(6) the names of those undergraduate institutions which are historically or predominantly black colleges and universities or other institutions with significant enrollments of African Americans, Asian Americans, Hispanic Americans, Native Hawaiians, Pacific Islanders, and Native Americans which have agreed to cooperate with the applicant institution to carry out the purposes of this part; and

(7) such other assurances and information as the Secretary may reasonably require by regulation.

(20 U.S.C. 1134r–2) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 773.

SEC. 954. FELLOWSHIP AGREEMENT.

Each recipient of a fellowship under this part shall enter into an agreement with the institution of higher education or consortium awarding such fellowship under which the fellowship recipient shall—

(1) in the case of a fellowship recipient described in section 951(a)(1), within a 5-year period after completing the doctoral degree for which the fellowship under this part was awarded, teach, for a period of not less than 1 year for each year for which financial assistance under this part was received, in a public or private nonprofit institution of higher education that has a significant minority enrollment;

(2) in the case of a fellowship recipient described in section 951(a)(2), within a 5-year period after completing the doctoral degree for which the fellowship under this part was awarded, teach, for a period of not less than 1 year for each year for which financial assistance under this part was received, in a public or private nonprofit institution of higher education;

(3) agree to provide the Secretary with evidence of compliance, determined pursuant to regulations issued by the Secretary, with the provisions of paragraph (1) or (2); and

(4) repay all or part of the fellowship received, plus interest, and if applicable reasonable collection fees, under regulations issued by the Secretary, in the event the conditions of paragraph (1) or (2) are not complied with, except as provided in section 956.

(20 U.S.C. 1134r–3) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 774.

SEC. 955. FELLOWSHIP REPAYMENT PROVISIONS.

A recipient of a fellowship under this part found by the Secretary to be in noncompliance with the agreement entered into under section 954(1) or 954(2) shall be required to repay a pro rata amount of such fellowship assistance received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

(20 U.S.C. 1134r–4) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 774.

SEC. 956. EXCEPTIONS TO REPAYMENT PROVISIONS.

(a) Deferral During Certain Periods.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 954 (1) or (2) during any period in which the recipient—

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

(6) is engaged in full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or a public or private nonprofit preschool, education program; or

(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

(b) Forgiveness if Permanently Totally Disabled.—A recipient shall be excused from repayment of any fellowship assistance received under this part if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

(20 U.S.C. 1134r–5) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 774.

SEC. 957. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1134r–6) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 775.

PART F—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION[1]

SEC. 961. PROGRAM REQUIREMENTS.

(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to assist minority, low-income, or educationally disadvantaged college graduates to successfully pursue a law degree and service in the legal profession through an annual grant or contract with the Council on Legal Education Opportunity (hereinafter CLEO). A grant or contract under this part shall permit CLEO to use up to 6 percent of the funds provided for administrative costs of the grant or contract.

(b) SERVICES AUTHORIZED.—A legal training project under this part may provide the following services:

(1) Assistance and counseling in gaining admission to accredited law schools.

(2) A 6-week intensive summer program designed to prepare minority, low-income or educationally disadvantaged individuals for the successful completion of legal studies.

(3) An academic-year program of tutorial services, academic advice and counseling designed to assist eligible participants successfully complete their legal training, which may include—

(A) instruction in reading, legal research, legal writing skills and problem analysis;

(B) academic advice and assistance in course selection;

(C) advisement about financing their legal education and available student financial aid;

(D) personal and professional counseling relative to career alternatives in the legal profession and bar examination preparation; and

(E) any other activity consistent with subparagraphs (A) through (D) which furthers the objectives of this part which the Secretary may, by regulation, reasonably require.

(c) USE OF FUNDS.—The Secretary shall by grant or contract on a biennial basis, with the Council on Legal Education Opportunity, cover all or part of the cost of—

(1) publicizing the existence and availability of program funds to assist minority, low-income, and educationally disadvantaged individuals to pursue a legal education;

(2) selecting minority, low-income and educationally disadvantaged individuals for training for the legal profession;

(3) facilitating the entry of such individuals into law schools at institutions of higher education for the purpose of pursuing a legal education;

(4) selecting from among all qualified applicants, which shall provide the services authorized by section 961(b) (2) or (3);

(5) evaluating the quality, impact and continuing feasibility of the programs implemented under section 961(b);

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[1] This program was originally enacted Oct. 17, 1986 as part E of title IX of the Act (P.L. 99–498, sec. 901(a), 100 Stat. 1558).

(6) providing, through the institutions, agencies, and organizations selected under paragraph (4), for not more than 6 months prior to entry of such individuals upon their course of training for the legal profession, or following entry, training designed to assist them to complete successfully such training for the legal profession;

(7) paying such stipends (including allowances for participant travel and for their dependents) as the Secretary may determine for such individuals for any such period of preliminary training for the legal profession during which such individuals maintain satisfactory academic progress toward the J.D. or LL.B. degree, as determined by the respective institution; and

(8) paying for administrative activities of the institutions of higher education, agencies, or organizations which receive subgrants or contracts under paragraph (6), or with which such contracts are entered into, to the extent that such activities are for the purpose of furthering the activities described in paragraphs (1) through (7).

(20 U.S.C. 1134s) Enacted October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1558; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 775.

SEC. 962. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $7,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1134t) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 776.

PART G—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS[1]

SEC. 971. PROGRAM AUTHORIZED.

(a) GRANT AND CONTRACT PURPOSES.—The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 percent of the costs of continuing, expanding, or establishing programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

(1) Judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor.

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[1] This program was originally enacted Oct. 17, 1986 as part F of title IX of the Act (P.L. 99–498, sec. 901(a), 100 Stat. 1560).

(2) Office or house counsel problems.

(3) Factual investigation, empirical research, or policy or legal analysis.

(b) USE OF FUNDS.—Such costs may include necessary expenditures incurred for—

(1) planning;

(2) training of faculty members and salary for additional faculty members;

(3) travel and per diem for faculty and students;

(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

(5) equipment and library resources;

(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

(7) such other items as are allowed pursuant to regulations issued by the Secretary.

(c) LIMITATIONS ON AMOUNTS.—No law school may receive more than $250,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

(d) DEFINITION.—For the purpose of this part, the term "accredited law school" means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

(20 U.S.C. 1134u) Enacted October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1560; amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 776.

SEC. 972. APPLICATIONS.

(a) REQUIREMENTS.—A grant or contract authorized by this part may be made by the Secretary upon application which—

(1) is made at such time or times and contains such information as the Secretary may prescribe;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) DISTRIBUTION OF GRANTS AND CONTRACTS.—The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

(20 U.S.C. 1134v) Enacted October 17, 1986, P.L. 99–498, sec. 910(a), 100 Stat. 1558; renumbered and amended July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 777.

SEC. 973. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1134w) Enacted July 23, 1992, P.L. 102–325, sec. 901, 106 Stat. 777.

TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

PART A—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Subpart 1—Program Authority

SEC. 1001. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

(a) AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education or combinations of such institutions and other public and private nonprofit institutions and agencies, to enable such institutions and combinations of such institutions to improve postsecondary education opportunities by—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(b) PLANNING GRANTS.—The Secretary is authorized to make planning grants to institutions of higher education for the development and testing of innovative techniques in postsecondary education. Such grants shall not exceed $20,000.

(20 U.S.C. 1135) Enacted June 23, 1972, P.L. 92–318, sec. 186(a)(1), 86 Stat. 312, 313; amended October 12, 1976, P.L. 94–482, sec. 176(a)(3), (a)(4), (a)(5), 90 Stat. 2165; amended November 15, 1977, P.L. 95–180, 91 Stat. 1372; amended October 3, 1980, P.L. 96–374, sec. 1001(a), 94 Stat. 1489; amended July 23, 1992, P.L. 102–325, sec. 1001, 106 Stat. 778.

SEC. 1002. NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

(a) ESTABLISHMENT.—There is established a National Board of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the "Board"). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Secretary shall designate one of the members of the Board as Chairperson of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

(2) APPOINTMENT OF DIRECTOR.—The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the "Director").

(c) DUTIES.—The Board shall—

(1) advise the Secretary and the Director on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary and the Director on the operation of the Fund for the Improvement of Postsecondary Education, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(3) meet at the call of the Chairperson, except that the Board shall meet whenever one-third or more of the members request in writing that a meeting be held.

(d) INFORMATION AND ASSISTANCE.—The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(20 U.S.C. 1135a–1) Enacted October 3, 1980, P.L. 96–374, sec. 1001(a), 94 Stat. 1489; amended October 17, 1986, P.L. 99–498, sec. 1001(a), 100 Stat. 1560; renumbered and amended July 23, 1992, P.L. 102–325, sec. 1001, 106 Stat. 778.

SEC. 1003. ADMINISTRATIVE PROVISIONS.

(a) TECHNICAL EMPLOYEES.—The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than 5 technical employees to administer this subpart who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) PROCEDURES.—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this subpart. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

(20 U.S.C. 1135a–2) Enacted October 3, 1980, P.L. 96–374, sec. 1001(a), 94 Stat. 1490; amended July 23, 1992, P.L. 102–325, sec. 1001, 106 Stat. 779; amended December 20, 1993, P.L. 103–208, sec. 2(j)(42), 107 Stat. 2484.

SEC. 1004. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart (except for section 1001(b)) $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) PLANNING GRANTS.—There are authorized to be appropriated to carry out section 1001(b) $1,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1135a–3) Enacted October 3, 1980, P.L. 96–374, sec. 1001(a), 94 Stat. 1490; amended October 17, 1986, P.L. 99–498, sec. 1001(a), 100 Stat. 1560; renumbered and amended July 23, 1992, P.L. 102–325, sec. 1001, 106 Stat. 779; amended December 20, 1993, P.L. 103–208, sec. 2(j)(42), 107 Stat. 2484.

Subpart 2—Special Projects in Areas of National Need

SEC. 1011. SPECIAL PROJECTS.

(a) GRANT AUTHORITY.—The Director is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Director deems necessary for innovative projects concerning one or more areas of particular national need identified by the Director.

(b) APPLICATION.—No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Secretary may require.

(c) AREAS OF NATIONAL NEED.—Areas of national need shall initially include, but shall not be limited to, the following:

(1) International exchanges.
(2) Campus climate and culture.
(3) Evaluation and dissemination.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1135a–11) Enacted July 23, 1992, P.L. 102–325, sec. 1001, 106 Stat. 780; amended December 20, 1993, P.L. 103–208, sec. 2(j)(43), 107 Stat. 2484.

PART B—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS

SUBPART 1—MINORITY SCIENCE IMPROVEMENT PROGRAM

SEC. 1021. PURPOSE; AUTHORITY.

(a) It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department by section 304(a)(1) of the Department of Education Organization Act of 1979.

(b) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities, particularly minority women, in scientific and technological careers.

(20 U.S.C. 1135b) Enacted October 17, 1986, P.L. 99–498, sec. 1002, 100 Stat. 1561; amended July 23, 1992, P.L. 102–325, sec. 1002(a), 106 Stat. 780; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1022. GRANT RECIPIENT SELECTION.

(a) ESTABLISHMENT OF CRITERIA.—Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

(b) PRIORITIES TO BE GIVEN IN CRITERIA.—In establishing criteria under subsection (a), the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

(c) REQUIRED CRITERIA.—In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

(1) plan of operation;
(2) quality of key personnel;
(3) budget and cost effectiveness;
(4) evaluation plan;
(5) adequacy of resources;
(6) identification of need for the project;
(7) potential institutional impact of the project;
(8) institutional commitment to the project;
(9) expected outcomes; and
(10) scientific and educational value of the proposed project.

(20 U.S.C. 1135b–1) Enacted October 17, 1986, P.L. 99–498, sec. 1002, 100 Stat. 1561; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1023. USE OF FUNDS.

(a) TYPES OF GRANTS.—Funds appropriated to carry out this subpart may be made available as—

(1) institutional grants (as defined in section 1046(6));
(2) cooperative grants (as defined in section 1046(7));
(3) design projects (as defined in section 1046(8)); or
(4) special projects (as defined in section 1046(9)).

(b) AUTHORIZED USES FOR EACH TYPE OF GRANT.—(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

(A) faculty development programs; or
(B) development of curriculum materials.

(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

(A) assisting institutions in sharing facilities and personnel;

(B) disseminating information about established programs in science and engineering;

(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or

(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

(3) The authorized uses of funds made available as design projects include (but are not limited to)—

(A) developing planning, management, and evaluation systems; or

(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

(4) The authorized uses of funds made available as special projects include (but are not limited to)—

(A) advanced science seminars;

(B) science faculty workshops and conferences;

(C) faculty training to develop specific science research or education skills;

(D) research in science education;

(E) programs for visiting scientists;

(F) preparation of films or audio-visual materials in science;

(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

(H) development of pre-college enrichment activities in science; or

(I) any other activities designed to address specific barriers to the entry of minorities into science.

(20 U.S.C. 1135b–2) Enacted October 17, 1986, P.L. 99–498, sec. 1002, 100 Stat. 1562; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1024. MULTIAGENCY STUDY OF MINORITY SCIENCE PROGRAMS.

SEC. 1024. The Secretary, in cooperation with the heads of other departments and agencies that operate programs similar in purposes to the Minority Science Improvement Program which seek to increase minority participation and representation in scientific fields, shall submit a report to the President and Congress summarizing and evaluating such programs by January 1, 1996.

(20 U.S.C. 1135b–3) Enacted July 23, 1992, P.L. 102–325, sec. 1002(b), 106 Stat. 780; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SUBPART 2—SCIENCE AND ENGINEERING ACCESS PROGRAMS

SEC. 1031. MINORITY SUPPORT IN SCIENCE AND ENGINEERING PROGRAMS.

SEC. 1031. The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions with a significant minority enrollment (at least 10 percent).

(20 U.S.C. 1135c) Enacted June 23, 1972, P.L. 92-218, sec. 186(a)(1), 86 Stat. 322, 323; amended October 3, 1980, P.L. 96-374, secs. 1001(b), 1391, 94 Stat. 1491, 1503; renumbered and amended October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1563; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

SEC. 1032. SPECIAL SERVICE PROJECTS PROGRAM.

The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support to accredited colleges and universities and professional scientific societies for a broad range of activities designed to eliminate or reduce specific barriers to the entry of minorities into science and technology.

(20 U.S.C. 1135c-1) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 323; amended October 3, 1980, P.L. 96-374, secs. 1001(b), 1391, 94 Stat. 1491, 1503; amended October 19, 1984, P.L. 98-524, sec. 4(c)(3), 98 Stat. 2488; renumbered and amended October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1563; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

SEC. 1033. SUPPORTABLE ACTIVITIES.

Funds appropriated for the purpose of this subpart may be made available for—

(1) providing needed services to groups of minority institutions or providing training for scientists and engineers from eligible minority institutions;

(2) providing needed services to groups of institutions serving significant numbers of minority students or providing training for scientists and engineers from such institutions to improve their ability to train minority students in science or engineering;

(3) assisting minority institutions to improve the quality of preparation of their students for graduate work or careers in science, mathematics, and technology;

(4) improving access of undergraduate students at minority institutions to careers in the sciences, mathematics, and engineering;

(5) improving access of minority students, particularly minority women, to careers in the sciences, mathematics, and engineering;

(6) improving access for pre-college minority students to careers in science, mathematics, and engineering through community outreach programs conducted through colleges and universities eligible for support through the Minority Science and Engineering Improvement Programs;

(7) disseminating activities, information, and educational materials designed to address specific barriers to the entry of minorities into science and technology, and conducting activities and studies concerning the flow of underrepresented ethnic minorities into scientific careers;

(8) supporting curriculum models to encourage minority student participation in research careers in science, mathematics, and technology; and

(9) improving the capability of minority institutions for self-assessment, management, and evaluation of their science, mathematics, and engineering programs and dissemination of their results.

(20 U.S.C. 1135c-2) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1563; amended July 23, 1992, P.L. 102-325, sec. 1002(c), 106 Stat. 780; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

SUBPART 3—ADMINISTRATIVE AND GENERAL PROVISIONS

SEC. 1041. ELIGIBILITY FOR GRANTS.

Eligibility to receive grants under this part is limited to—

(1) public and private nonprofit institutions that are minority institutions (as defined in section 1046(3));

(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions; and

(3) for the purposes of section 1032, public and private nonprofit institutions that have at least 10 percent minority enrollment.

(20 U.S.C. 1135d) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1564; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

SEC. 1042. GRANT APPLICATION.

(a) SUBMISSION AND CONTENTS OF APPLICATIONS.—An eligible applicant (as determined under section 1041) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

(1) a program of activities for carrying out one or more of the purposes described in section 1021(b) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) APPROVAL BASED ON LIKELIHOOD OF PROGRESS.—The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

(20 U.S.C. 1135d-1) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1564; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

SEC. 1043. CROSS PROGRAM AND CROSS AGENCY COOPERATION.

The Minority Science and Engineering Improvement Programs shall cooperate and consult with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

(20 U.S.C. 1135d-2) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1564; amended July 23, 1992, P.L. 102-325, sec. 1002(d), 106 Stat. 780; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

SEC. 1044. ADMINISTRATIVE PROVISIONS.

(a) TECHNICAL STAFF.—The Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) PROCEDURES FOR GRANT REVIEW.—The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this title may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

(20 U.S.C. 1135d–3) Enacted October 17, 1986, P.L. 99–498, sec. 1002, 100 Stat. 1564; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

[Section 1045 is repealed by section 1002(e) of Public Law 102–325, 106 Stat. 780.]

SEC. 1046. DEFINITIONS.

For the purpose of this part—

(1) The term "accredited" means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

(2) The term "minority" means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

(3) The term "minority institution" means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

(4) The term "science" means, for the purpose of this program, the biological, engineering, mathematical, physical, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

(5) The term "underrepresented in science and engineering" means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

(6) The term "institutional grant" means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for

improving the preparation of minority students for careers in science.

(7) The term "cooperative grant" means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

(8) The term "design projects" means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(9) The term "special projects" means—

(A) a special project grant to a minority institution which support activities that—

(i) improve the quality of training in science and engineering at minority institutions; or

(ii) enhance the minority institutions' general scientific research capabilities; or

(B) a special project grant to any eligible applicant which supports activities that—

(i) provide a needed service to a group of eligible minority institutions; or

(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(20 U.S.C. 1135d–5) Enacted October 17, 1986, P.L. 99–498, sec. 1002, 100 Stat. 1566; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1047. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the purposes of this part, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) APPROPRIATION LIMITATION.—For any fiscal year, 50 percent of the funds appropriated for this part shall be allocated for the purpose of section 1021, 33.33 percent for the purpose of section 1031, and 16.67 percent for the purpose of section 1032.

(20 U.S.C. 1135d–6) Enacted October 17, 1986, P.L. 99–498, sec. 1002, 100 Stat. 1567; amended Aug. 23, 1988, P.L. 100–418, sec. 6221, 102 Stat. 1518; amended July 23, 1992, P.L. 102–325, sec. 1002(f), 106 Stat. 780; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

PART C—WOMEN AND MINORITIES SCIENCE AND ENGINEERING OUTREACH DEMONSTRATION PROGRAM

SEC. 1061. PURPOSE.

It is the purpose of this part to provide grants to institutions working in partnership with elementary and secondary schools to establish outreach programs for female and minority elementary and secondary school students to increase the participation of those students in science and engineering undergraduate and graduate degree programs.

(20 U.S.C. 1135e) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 781.

SEC. 1062. PROGRAM AUTHORIZED.

The Secretary shall, in accordance with the provision of this part, award grants to eligible institutions to enable such eligible institutions to pay the Federal share of the costs of carrying out a program that is designed to enhance, coordinate, develop, and expand programs and initiatives which identify and encourage female and minority elementary and secondary school students to pursue higher education in preparation for careers in science and engineering.

(20 U.S.C. 1135e–1) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 781.

SEC. 1063. ELIGIBLE INSTITUTIONS.

(a) DEFINITION.—For the purpose of this part the term "eligible institution" means an institution of higher education which—

(1) has science and engineering programs;

(2) has female and minority enrollment and retention rates significantly higher than the national averages of such rates, but does not meet the definition of "minority institution" set forth in section 1046(3);

(3) demonstrates its ability to conduct outreach activities in science and engineering to female and minority students at the elementary and secondary school levels;

(4) incorporates the use of advanced telecommunications equipment, including fiber optics and interactive video systems, to improve the development of intermodal programs targeted toward female and minority students;

(5) enters into a partnership agreement with a local educational agency and at least 1 local business or industry; and

(6) describes in the application submitted pursuant to section 1065 the duties of each partner entering into the partnership agreement described in paragraph (5).

(b) LIMITATION.—The Secretary shall award at least 40 percent of the total funds made available under this section in any fiscal year to eligible institutions located in any of the Nation's ten largest metropolitan statistical areas.

(20 U.S.C. 1135e–2) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 781.

SEC. 1064. AMOUNT, DURATION, AND USE OF FUNDS.

(a) AMOUNT AND DURATION OF GRANTS.—Grants under this part shall be provided in an amount which is not less than $500,000 in a single fiscal year, and shall be continued for a period not to exceed 5 fiscal years.

(b) USE OF GRANTS.—Grants provided under this section may be used for—

(1) the operation and administration of outreach programs to elementary and secondary school students;

(2) faculty development programs in support of outreach programs;

(3) curriculum development in support of the outreach programs;

(4) disseminating information about the outreach programs to elementary and secondary schools and institutions of higher education;

(5) supporting cooperative efforts with elementary and secondary schools, community groups, business and industry, and

other education-related groups, to expand the scope of the outreach programs; and

(6) establishing infrastructure necessary to operate programs, specifically including telecommunications equipment providing distance learning capabilities.

(20 U.S.C. 1135e–3) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 782.

SEC. 1065. APPLICATION.

To receive a grant under this part, an eligible institution shall submit an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall contain a description of the goals of the activities to be assisted.

(20 U.S.C. 1135e–4) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 782.

SEC. 1066. EVALUATION.

(a) INDEPENDENT ANNUAL EVALUATION.—The Secretary shall provide for the annual independent evaluation of activities assisted under this part to determine their effectiveness in providing—

(1) the operation and administration of outreach programs to elementary and secondary school students;

(2) faculty development programs in support of outreach programs;

(3) curriculum development in support of the outreach programs;

(4) disseminating information about the outreach programs to elementary and secondary schools and institutions of higher education;

(5) supporting cooperative efforts with elementary and secondary schools, community groups, business and industry, and other education-related groups, to expand the scope of outreach programs; and

(6) establishing infrastructure necessary to operate programs, specifically including telecommunications equipment providing distance learning capabilities.

(b) EVALUATIONS.—

(1) CONDUCT AND CRITERIA.—Each evaluation described in subsection (a) shall be conducted by individuals not directly involved in the administration of the activities assisted under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors described in subsection (a). When possible, each evaluation shall include comparisons with appropriate control groups.

(2) PROGRAM EFFECTIVENESS.—In order to determine the effectiveness of assistance provided under this part in achieving the goals stated in the application described in section 1065, each evaluation described in subsection (a) shall contain objective measures of such goals and, where feasible, shall obtain the specific views of participants about the activities assisted under this part.

(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress a review and summary of the results of the evaluations described in subsection (a) not later than September 30, 1997.

(20 U.S.C. 1135e–5) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 782.

SEC. 1067. FEDERAL SHARE.

The Federal share of the costs of activities assisted under this part shall be 90 percent of the costs of such activities in the first year an eligible institution receives a grant under this part, 80 percent of such cost in the second such year, 70 percent of such cost in the third such year, 60 percent of such cost in the fourth such year, and 50 percent of such costs in the fifth such year. The remaining funds shall be provided from non-Federal sources.

(20 U.S.C. 1135e–6) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 783.

SEC. 1068. SUPPLEMENT NOT SUPPLANT.

An eligible institution may use funds received under this part only so as to supplement and, to the extent practicable, increase the level of funds that would be available from non-Federal sources for the activities described in section 1064(b) and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

(20 U.S.C. 1135e–7) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 783.

SEC. 1069. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years. Not more than 3 percent of the amount appropriated for this part in any fiscal year may be used for purposes of section 1066.

(20 U.S.C. 1135e–8) Enacted July 23, 1992, P.L. 102–325, sec. 1003, 106 Stat. 783.

PART D—DWIGHT D. EISENHOWER LEADERSHIP PROGRAM

SEC. 1081. SHORT TITLE; ESTABLISHMENT OF THE PROGRAM.

(a) SHORT TITLE.—This part may be cited as the "Dwight D. Eisenhower Leadership Development Act of 1992".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a program to be known as the "Dwight D. Eisenhower Leadership Development Program".

(2) SPECIAL RULE.—The program assisted under this part shall be established in conjunction with institutions of higher education which are specially prepared to undertake the development of new generations of leaders in the areas of national and international affairs.

(c) FUNCTIONS OF THE PROGRAM.—The functions of the program assisted under this part shall include—

(1) stimulating and supporting the development of leadership skills among new generations of American college students;

(2) directing a national program that identifies, recruits, inspires, and educates outstanding young men and women regarding leadership roles in a wide variety of fields in both the public and private sectors;

(3) offering opportunities for young American leaders who meet the requirements of section 484(a) of this Act and who

are broadly representative of the population of the United States to benefit from internships in national and international organizations, with special attention being given to establishing such opportunities in developing countries;

(4) developing curriculum for secondary and postsecondary education;

(5) developing a prototype for understanding and teaching critical leadership skills to young Americans and encouraging institutions of higher education to establish similar leadership programs throughout the United States and abroad; and

(6) stimulating the theoretical and practical study of leadership and leadership development to develop both a better understanding of leadership and improved methods to teach critical skills to young adults.

(d) OPERATION OF THE PROGRAM.—The Secretary is authorized to make grants to or enter into cooperative agreements, contracts, or leases with institutions of higher education (as defined in section 1201 of this title), or with nonprofit private organizations in consortia with such institutions, to operate the program assisted under this part.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(20 U.S.C. 1135f) Enacted July 23, 1992, P.L. 102–325, sec. 1004, 106 Stat. 783; amended December 20, 1993, P.L. 103–208, sec. 2(j)(44), (45), 107 Stat. 2485.

TITLE XI—COMMUNITY SERVICE PROGRAMS

PART A—URBAN COMMUNITY SERVICE[1]

SEC. 1101. FINDINGS.

The Congress finds that—

(1) the Nation's urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

(2) there are, in the Nation's urban institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

(3) the skills, knowledge and experience in these urban institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

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[1] This program was originally enacted on October 17, 1986 as Part B of title XI of the Act (P.L. 99–498, sec. 1101, 100 Stat. 1570).

(20 U.S.C. 1136) Enacted July 23, 1992, P.L. 102-325, sec. 1101, 106 Stat. 784.

SEC. 1102. PURPOSE; PROGRAM AUTHORIZED.

(a) PURPOSE.—It is the purpose of this part to provide incentives to urban academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

(b) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the activities described in section 1104 in accordance with the provisions of this part.

(20 U.S.C. 1136a) Enacted July 23, 1992, P.L. 102-325, sec. 1101, 106 Stat. 785.

SEC. 1103. APPLICATION FOR URBAN COMMUNITY SERVICE GRANTS.

(a) APPLICATION.—

(1) IN GENERAL.—An eligible institution seeking assistance under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services for which assistance is sought; and

(B) include a plan that is agreed to by the members of a consortium that includes, in addition to the eligible institution, one or more of the following entities:

(i) A community college.
(ii) An urban school system.
(iii) A local government.
(iv) A business or other employer.
(v) A nonprofit institution.

(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

(c) SELECTION PROCEDURES.—The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

(20 U.S.C. 1136b) Enacted October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1569; amended July 23, 1992, P.L. 102-325, sec. 1101, 106 Stat. 785.

SEC. 1104. ALLOWABLE ACTIVITIES.

Funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist urban communities to meet and address their pressing and severe problems, such as the following:

(1) Work force preparation.

(2) Urban poverty and the alleviation of such poverty.

(3) Health care, including delivery and access.

(4) Underperforming school systems and students.

(5) Problems faced by the elderly and individuals with disabilities in urban settings.

(6) Problems faced by families and children.

(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

(8) Urban housing.

(9) Urban infrastructure.

(10) Economic development.

(11) Urban environmental concerns.

(12) Other problem areas which participants in the consortium described in section 1103(a)(2)(B) concur are of high priority in the urban area.

(13)(A) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

(B) Amelioration of existing attitudinal barriers that prevent full inclusion by individuals with disabilities with their community.

(20 U.S.C. 1136c) Enacted October 17, 1986, P.L. 99–498, sec. 1101, 100 Stat. 1569; amended July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 785.

SEC. 1105. PEER REVIEW.

The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, State and local government, who have expertise in urban community service or in education.

(20 U.S.C. 1136d) Enacted October 17, 1986, P.L. 99–498, sec. 1101, 100 Stat. 1569; amended July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 785.

SEC. 1106. DISBURSEMENT OF FUNDS.

(a) Multiyear Availability.—Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium of such institutions, may receive such a grant for more than 5 years.

(b) Equitable Geographic Distribution.—The Secretary shall award grants under this part in a manner that achieves equitable geographic distribution of such grants.

(c) Matching Requirement.—An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount of the grant, which contribution may be in cash or in kind.

(20 U.S.C. 1136e) Enacted October 17, 1986, P.L. 99–498, sec. 1101, 100 Stat. 1569; amended July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 785; amended December 20, 1993, P.L. 103–208, sec. 2(j)(46), 107 Stat. 2485.

SEC. 1107. DESIGNATION OF URBAN GRANT INSTITUTIONS.

The Secretary shall publish a list of eligible institutions under this part and shall designate these institutions of higher education as "Urban Grant Institutions". The Secretary shall establish a national network of Urban Grant Institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated and applied throughout the Nation.

(20 U.S.C. 1136f) Enacted October 17, 1986, P.L. 99–498, sec. 1101, 100 Stat. 1569; amended July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 785.

SEC. 1108. DEFINITIONS.

As used in this part:

(1) URBAN AREA.—The term "urban area" means a metropolitan statistical area having a population of not less than 350,000, or two contiguous metropolitan statistical areas having a population of not less than 350,000, or, in any State which does not have a metropolitan statistical area which has such a population, the entity of the State having an agreement or submitting an application under section 1103, or, if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this part.

(2) ELIGIBLE INSTITUTION.—The term "eligible institution" means—

(A) a nonprofit municipal university, established by the governing body of the city in which it is located, and operating as of the date of enactment of the Higher Education Amendments of 1992 under that authority; or

(B) an institution of higher education, or a consortium of such institutions any one of which meets all of the requirements of this paragraph, which—

(i) is located in an urban area;

(ii) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

(iii) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

(iv) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

(v) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

(vi) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

(20 U.S.C. 1136g) Enacted October 17, 1986, P.L. 99–498, sec. 1101, 100 Stat. 1569; amended July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 785.

SEC. 1109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this part.

(20 U.S.C. 1136h) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 787.

PART B—INNOVATIVE PROJECTS

Subpart 1—Innovative Projects for Community Service[1]

SEC. 1121. STATEMENT OF PURPOSE.

It is the purpose of this subpart to support innovative projects in order to encourage student participation in community service projects, including literacy projects.

(20 U.S.C. 1137) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 788.

SEC. 1122. INNOVATIVE PROJECTS FOR COMMUNITY SERVICE.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to and enter into contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this subpart.

(2) PROJECTS.—The projects described in paragraph (1) may—

(A) support research regarding the effects of student community service organizations;

(B) provide assistance to student organizations that work with community service organizations;

(C) support linkages between youth corps programs, as described in section 122(a)(2) of the National and Community Service Act of 1990 and institutions of higher education; and

(D) support innovative student service programs.

(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(c) APPLICABLE PROCEDURES.—

(1) PROCEDURES.—No application may be approved under subsection (b) unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director of such Fund, approves the application.

(2) SPECIAL RULE.—The provisions of section 1003(b) shall apply to grants made under this subpart.

(d) DEFINITION.—For the purpose of this subpart, the term "community service" means planned, supervised services designed to improve the quality of life for community residents, particularly community residents with low income, or to assist in the solution of particular problems related to the needs of such residents.

(20 U.S.C. 1137a) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 788; amended September 21, 1993, P.L. 103–82, sec. 111(b)(4), 107 Stat. 860.

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[1] This program was originally enacted on October 17, 1986 as part C of title X of the Act (P.L. 99–498, sec. 1003, 100 Stat. 1567).

Subpart 2—Student Literacy Corps and Student Mentoring Corps[1]

SEC. 1141. PURPOSE.

It is the purpose of this subpart to provide financial assistance to institutions of higher education to promote the development of literacy corps programs and mentoring corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

(20 U.S.C. 1138) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 788.

SEC. 1142. LITERACY CORPS PROGRAM AND MENTORING CORPS PROGRAM.

(a) GENERAL AUTHORITY.—From the amount appropriated for this subpart pursuant to section 1151 for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 4 years to pay the Federal share of the cost of carrying out a student literacy corps program or a student mentoring corps program.

(b) LIMITATION.—An institution of higher education shall only receive 1 grant under this subpart in each fiscal year.

(c) CONTINUATION OF LITERACY OR MENTORING PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 1144.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of carrying out a student literacy corps program or a student mentoring corps program under this subpart shall be—

(A) not more than 100 percent for an initial grant to an institution of higher education; and

(B) not more than 75 percent for a grant renewed under subsection (c).

(2) NON-FEDERAL SHARE.—The non-Federal share of carrying out a student literacy corps program or a student mentoring corps program under this subpart may be paid from any non-Federal sources.

(20 U.S.C. 1138a) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 789; amended December 20, 1993, P.L. 103–208, sec. 2(j)(47), 107 Stat. 2485.

SEC. 1143. USES OF FUNDS.

(a) IN GENERAL.—Funds made available under this subpart may be used for—

(1) grants to institutions of higher education for—

(A) the costs of participation of institutions of higher education in the student literacy corps program or student mentoring corps program for which assistance is sought; and

(B) stipends for student coordinators engaged in the student literacy corps program or student mentoring corps program for which assistance is sought; and

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[1] This program was originally enacted August 23, 1988 as part D of title I of the Act (P.L. 100–418, sec. 6201, 102 Stat. 1514).

(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 1145.

(b) LIMITATIONS.—No grant under this subpart to an institution of higher education may exceed $100,000. No institution of higher education may expend more than $35,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

(20 U.S.C. 1138b) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 789.

SEC. 1144. APPLICATIONS.

(a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS OF APPLICATION.—

(1) LITERACY CORPS.—Each application to conduct a student literacy corps program under this subpart shall—

(A) contain assurances that the institution will use the grant in accordance with section 1143;

(B) contain adequate assurances that—

(i) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

(ii) such individuals will be required, as a condition of receiving credit in such course, to perform, for each credit, not less than 2 hours a week, of voluntary, uncompensated service during the academic term in a public community agency as a tutor in such agency's educational or literacy program;

(iii) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

(iv) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals, and will give priority in providing tutoring services to—

(I) educationally disadvantaged students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(II) students with disabilities; and

(III) illiterate parents of educationally or economically disadvantaged elementary school students, with special emphasis on single-parent households; and

(C) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subpart, in community service activities, including the conduct of a cooperative education program; and

(D) contain such other assurances as the Secretary may reasonably require.

(2) Mentoring corps.—Each application to conduct a student mentoring corps program under this subpart shall—

(A) contain assurances that the institution will use the grant in accordance with section 1144;

(B) contain adequate assurances that—

(i) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students of various academic departments with experience as mentors;

(ii) such individuals will be required, as a condition of receiving credit in such course, to perform not less than 60 hours of voluntary, uncompensated service during the academic term as a mentor to economically disadvantaged children and youth;

(iii) such mentoring will be complimentary to the existing instructional services offered in a structured classroom setting, and will include structured and informal activities geared towards improving the academic, social and emotional development of children in the programs;

(iv) the institution will locate public community agencies or elementary or secondary schools which serve educationally or economically disadvantaged youth and will give priority in providing mentoring services to economically disadvantaged children and youth through community-based organizations or elementary or secondary schools;

(C) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subpart, in community service activities, including the conduct of a cooperative education program; and

(D) contain such other assurances as the Secretary may reasonably require.

(c) Waiver.—

(1) In general.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of subsection (b)(1)(C) or (b)(2)(C), grant a waiver of the requirement under such paragraph if the institution of higher education provides assurances that—

(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

(B) its failure to engage in community service-related programs or activities prior to making application under this subpart will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this subpart.

(2) Special rule.—An institution of higher education may apply for a waiver as part of the application described in subsection (b).

(d) CARRYOVER OF FUNDS.—Notwithstanding any other provision of law, in any fiscal year in which funds are appropriated under this subpart but not expended by the end of such fiscal year, at least 75 percent of such funds shall remain available in the succeeding fiscal year to carry out this subpart.

(20 U.S.C. 1138c) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 789.

SEC. 1145. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT.

To the extent that funds are available therefor pursuant to section 1151, the Secretary may, directly or by way of grant, contract, or other arrangement—

(1) provide technical assistance to grant recipients under this subpart;

(2) collect and disseminate information with respect to programs assisted under this subpart; and

(3) evaluate such programs and issue reports on the results of such evaluations.

(20 U.S.C. 1138d) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 791.

SEC. 1146. DEFINITIONS.

For the purpose of this subpart—

(1) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education", in the case of an institution of higher education with a branch campus, means, at the election of the institution—

(A) a branch campus of the institution; or

(B) the institution.

(2) PUBLIC COMMUNITY AGENCY.—The term "public community agency" means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving individuals with disabilities, including disabled veterans.

(20 U.S.C. 1138e) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 791.

Subpart 3—Authorization of Appropriations

SEC. 1151. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years of which, for any such fiscal year—

(1) not more than one-third shall be available to carry out subpart 1; and

(2) not less than two-thirds shall be available to carry out subpart 2.

(20 U.S.C. 1139) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 792.

TITLE XII—GENERAL PROVISIONS

SEC. 1201. DEFINITIONS.

As used in this Act—

(a) The term "institution of higher education"[1] means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.[2] For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines, pursuant to subpart 2 of part H of title IV of this Act, to be reliable authority as to the quality of the education or training offered.

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.[3]

(c) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

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[1] Section 410 of title IV of P.L. 94–482 (Enacted October 12, 1976), 90 Stat. 2233, 2234 adds the following amendment to the Act of November 2, 1921 (25 U.S.C. 13): "Notwithstanding any other provision of this Act or any other law, postsecondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an "institution of higher education" under section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.".

[2] This sentence was added by section 181(a) of P.L. 94–482, as amended by section 1(b)(7) of P.L. 95–43. Section 181(b) of P.L. 94–482, as added by section 1(b)(7) of P.L. 95–43, read as follows:

"(b) Neither the amendment made by subsection (a) of this section nor the amendment made to section 435(b)(1) of the Act (by section 127(a) of this Act) shall be construed to authorize terminating the eligibility of an institution which was deemed to be an institution of higher education for purposes of sections 435(b)(1) and 1201(a) on the date of enactment of this Act. The preceding sentence of this section shall not be construed to impair the authority of the Commissioner to limit, suspend, or terminate such eligibility for the reasons and as provided by section 497 of the Act.".

[3] State status for Higher Education Act purposes extended to Northern Mariana Islands and Trust Territory of the Pacific Islands by P.L. 95–180, November 15, 1977, 91 Stat. 1372. Section d of P.L. 95–180 prevents the invalidation of "any payments or other benefits provided under the Higher Education Act of 1965" to the Trust Territory of the Pacific Islands or the government of the Northern Mariana Islands prior to November 15, 1977 by any other provision of law.

(d) The term "secondary school" has the same meaning given that term under section 1471(21) of the Elementary and Secondary Education Act of 1965.

(e) The term "Secretary" means the Secretary of Education.

(f) The term "local educational agency" has the same meaning given that term under section 1471(12) of the Elementary and Secondary Education Act of 1965.

(g) The term "State educational agency" has the same meaning given that term under section 1471(23) of the Elementary and Secondary Education Act of 1965.

(h) The term "State higher education agency" means the officer or agency primarily responsible for the State supervision of higher education.

(i) The term "elementary school" has the same meaning given that term under section 1471(8) of the Elementary and Secondary Education Act of 1965.

(j) The term "combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(k) The term "gifted and talented children" has the same meaning given that term under section 4103(1) of the Elementary and Secondary Education Act of 1965.

(l) The term "school or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.

(m) The term "Department" means the Department of Education.

(n) The term "disability" has the same meaning given that term under section 3(2) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12102(2)).

(o) The term "special education teacher" means teachers who teach children with disabilities as defined in the Individuals With Disabilities Education Act.

(p) The term "service-learning" has the same meaning given that term under section 101(23) of the National and Community Service Act of 1990 (42 U.S.C. 12511(21)).

(20 U.S.C. 1141) Enacted Nov. 8, 1965, P.L. 89–329, sec. 801, 78 Stat. 1269; amended Oct. 16, 1968, P.L. 90–575, secs. 251, 293, and 294, 82 Stat. 1042 and 1050–51; amended April 13, 1970, P.L. 91–230, sec. 806(b), 84 Stat. 192; subsection (l) added June 23, 1972, P.L. 92–318, sec. 131(d)(1), 86 Stat. 260; amended October 12, 1976, P.L. 94–482, sec. 181, 90 Stat. 2167; amended October 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended June 3, 1987, P.L. 100–50, sec. 21(a), 101 Stat. 360; amended April 9, 1991, P.L. 102–26, sec. 2(a)(4), 105 Stat. 123; amended

July 23, 1992, P.L. 102–325, sec. 1201, 106 Stat. 792; amended September 21, 1993, P.L. 103–82, sec. 111(b)(5), 107 Stat. 861; amended December 20, 1993, P.L. 103–208, sec. 2(j)(48), (m), 107 Stat. 2485, 2486.

SEC. 1202. ANTIDISCRIMINATION.

(a) IN GENERAL.—Institutions of higher education receiving Federal financial assistance may not use such financial assistance whether directly or indirectly to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except no institution shall be barred from performing such study, project, or contract, except no institution shall be barred from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or have its curriculum restricted on the subject of discrimination, against any such person.

(b) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed to limit the rights or responsibilities of any individual under the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973, or any other law.

(20 U.S.C. 1145b) Enacted October 12, 1976, P.L. 94–482, sec. 182, 90 Stat. 2167; redesignated October 3, 1980, P.L. 96–374, sec. 2101, 94 Stat. 1493; amended July 23, 1992, P.L. 102–325, sec. 1202, 106 Stat. 793; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1203. FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS.

(a) Any State which desires to receive assistance under an applicable program, as described in subsection (f), shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs.

(b) Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable programs described in subsection (f);

(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any title of this Act;

(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

(4) the State has a comprehensive planning or policy formulation process which—

(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

(B) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

Participation under subclause (E) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

(c) The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f).

(d)(1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in paragraph (1), (2), or (3) of subsection (b), the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) until the Secretary is satisfied that there is no longer any such failure to comply.

(e)(1) For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

(2)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

(f) For the purposes of this section an "applicable program" is defined as—

(1) title I;

(2) subpart 3 of part A of title IV; and

(3) part A of title VII.

(20 U.S.C. 1143) Enacted October 3, 1980, P.L. 96–374, sec. 1201, 94 Stat. 1493; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1204. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.

(a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, Palau, the Commonwealth of the Northern Mariana Islands, and the freely associated states.

(b) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under chapter 1 of subpart 2 of part A of title IV of this Act.

(20 U.S.C. 1144a) Enacted October 3, 1980, P.L. 96–374, sec. 1201, 94 Stat. 1495; amended October 17, 1986, P.L. 99–498, sec. 1201, 100 Stat. 1573; amended July 25, 1991, P.L. 102–73, sec. 801(c), 105 Stat. 360; amended December 20, 1993, P.L. 103–208, sec. 2(j)(49), (m), 107 Stat. 2485, 2486.

SEC. 1205. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

(a) ESTABLISHMENT.—There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (hereafter in this section referred to as the "Committee"), which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and types of institutions of higher education (as defined in section 481(a)), to assess the process of eligibility and certification of such institutions under title IV of this Act and the provision of financial aid under title IV of this Act. The Secretary may also appoint to the Committee representatives of the general public serving on the National Advisory Committee on Accreditation and Institutional Eligibility (as such Committee was in existence on the date of enactment of the Higher Education Amendments of 1992).

(b) TERMS OF MEMBERS.—Terms of office of each member of the Committee shall be 3 years, except that—

(1) of the members first appointed to the Committee the Secretary shall designate—

(A) 5 such members to serve for a term of 1 year;

(B) 5 such members to serve for a term of 2 years; and

(C) 5 such members to serve for a term of 3 years; and

(2) any member appointed to fill in a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(c) FUNCTIONS.—The Committee shall—

(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part H of title IV of this Act;

(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

(4) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

(5) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under title IV of this Act, together with recommendations for improvements in such process;

(6) advise the Secretary with respect to the functions of the Secretary under subpart 1 of part H of title IV of this Act, relating to State institutional integrity standards;

(7) advise the Secretary with respect to the relationship between—

(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

(B) State licensing responsibilities with respect to such institutions; and

(8) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe.

(d) MEETING PROCEDURES.—The Committee shall meet not less than twice each year at the call of the Chairperson. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

(e) REPORT.—The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain—

(1) a list of the members of the Committee and their addresses;

(2) a list of the functions of the Committee;

(3) a list of dates and places of each meeting during the preceding fiscal year; and

(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

(f) TERMINATION.—Subject to section 448(b) of the General Education Provision Act, the National Advisory Committee on Institutional Quality and Integrity shall continue to exist until September 30, 1998.

(20 U.S.C. 1145) Enacted October 3, 1980, P.L. 96–374, sec. 1201, 94 Stat. 1495; amended October 17, 1986, P.L. 99–498, sec. 1202, 100 Stat. 1573; amended July 23, 1992, P.L. 102–325, sec. 1203, 106 Stat. 793; amended December 20, 1993, P.L. 103–208, sec. 2(j)(50)–(53), 107 Stat. 2485.

SEC. 1206. COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS.

(a) There is established in the legislative branch a Joint Study Commission on Postsecondary Institutional Recognition (hereafter in this section referred to as the "Commission").

(b) The Commission shall be composed of 5 members appointed jointly by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, and by the Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader.

(c)(1) Members of the Commission shall be appointed, on the basis of their integrity, impartiality, and good judgment, from among individuals who, as a result of their training, experience, and attainment, are widely recognized by professionals in the fields of education and governmental administration as experts in those fields.

(2) A majority of the members of the Commission may not, at the time of their appointment, be serving as either employees or officers of any accrediting agency or an organization of accrediting agencies, currently serving as administrators of accredited institutions, or be current or past members of the Advisory Committee on Accreditation and Institutional Eligibility of the Department.

(3) Vacancies in the membership of the Commission shall not affect the power of the remaining members to perform the duties of the Commission and shall be filled in the same manner in which the original appointment was made.

(4) Each member of the Commission not otherwise employed by the United States Government shall receive the daily equivalent of the annual basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Commission. Each member of the Commission shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

(d)(1) The Commission shall conduct a thorough study of the institutional and programmatic recognition process used by the Department in determining institutional or programmatic eligibility for student participation in Federal student assistance programs under this Act with attention being given to the accreditation of various types of public and private postsecondary institutions and programs.

(2) The study shall address, analyze, and report specifically on—

(A) the comprehensiveness of the standards and criteria used by existing accreditation agencies;

(B) the reliability and validity of the institutional and programmatic review processes used by the existing accreditation agencies;

(C) the adequacy of the current accreditation methodology and system;

(D) alternative structures, standards, criteria, and processes that might be used in accrediting institutions and programs;

(E) the indicators of educational quality that might be incorporated into the accreditation process;

(F) the educational outcome measurements that might be used in the accreditation process;

(G) the indicators of institutional and programmatic quality that should be provided to applicants and students; and

(H) alternative approaches that might be used by the Secretary for institutional and programmatic recognition to permit student participation in Federal student assistance programs,

as each factor bears on eligibility for participation in Federal student assistance programs.

(3) The study shall also include an analysis of—

(A) the processes and procedures currently utilized by the Secretary and the Department in determining institutional and program eligibility for receiving Federal student assistance funds;

(B) the operations and effectiveness in carrying out eligibility determination of the division of the Department referred to as the "Division of Eligibility and Agency Evaluation";

(C) review of alternatives to accreditation in determining eligibility and their acceptability;

(D) the role and effectiveness of, participation agreements, between institutions and programs and the Department in determining specific institutional program eligibility for Federal funds;

(E) the ability of the Department to enforce conditions specified in participation agreements, including institutional and program audits;

(F) the current status, functioning, and effectiveness of the National Advisory Committee on Accreditation and Institutional Eligibility, including its role in developing criteria for recognition of accrediting agencies and evaluating their success in assessing the quality of the education or training offered.

(e) The Commission shall adopt procedures allowing any interested party to submit information with respect to the recognition process, including critiques of current accrediting agency recognition procedures, accreditation procedures, possible alternative procedures, and proposed changes in criteria for recognition of individual accrediting agencies.

(f) The Commission shall prepare a narrative and statistical report consisting of—

(1) an overview description of the voluntary accrediting process used for postsecondary education in the United States; and

(2) a brief description of each accrediting agency recognized by the Department.

The report shall include at least a statement of the agency's purpose and a description of the organizational and governance structure of the agency, the agency's accreditation and visitation procedures, employers of members of the accrediting agency's governing body, the agency's sources of financial support, and such background information as the Commission may request from the agency regarding the number of members, number of candidates for accreditation, number of members voluntarily withdrawn after membership, number of applications withdrawn before membership, number of members dropped, and number of applicants denied accreditation. The report shall include the types of information shared among the various accrediting agencies, the degree of duplication among accrediting agencies in the current system, and an analysis of reported complaints by the agency and its member institutions and programs.

(g) The Commission shall also prepare a report on—

(1) the history, operation, procedures, and the role and adequacy of staff of the division described in subsection (e)(3)(B);

(2) the history and current operations of the National Advisory Committee on Accreditation and Institutional Eligibility, including current criteria for Federal recognition of accrediting bodies, how the criteria were developed, possible modifications, and procedures for accomplishing this; and

(3) with respect to the Department in general, an overview of its role in the institutional and programmatic recognition process as it relates to eligibility for Federal student assistance, including recommendations, if appropriate, on how this role might be changed and improved.

(h)(1)(A) By agreement between the President pro tempore of the Senate and the Speaker of the House of Representatives, the Commission is authorized to secure on a reimbursable basis, office space, clerical personnel, travel expenses, and such supplies and equipment as may be necessary for the Commission to carry out the study.

(B) Subject to such limitations as the President pro tempore of the Senate and the Speaker of the House of Representatives may jointly prescribe, the Commission may appoint such personnel as the Commission deems necessary and fix the compensation at an annual rate that does not exceed the rate of basic pay then payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary and intermittent services of clerical personnel and experts or consultants, or organizations thereof.

(2) In conducting the study authorized by this section, the Commission is authorized to—

(A) seek such assistance and support as may be required to conduct the study from appropriate Federal agencies;

(B) arrange for the detail of staff personnel from other Federal agencies;

(C) enter into contracts and make other arrangements, as may be necessary for the conduct of the study;

(D) convene such technical groups as deemed necessary to secure information about the existing recognition process; and

(E) provide transportation and subsistence for persons serving without compensation.

(3) Upon request by the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in the conduct of the study.

(i) The Commission shall submit a report of the findings and recommendations of the study required by this section to the Postsecondary Education Subcommittee of the Education and Labor Committee of the House of Representatives and the Subcommittee on Education, Arts, and Humanities of the Labor and Human Resources Committee of the Senate not later than one year after funds are appropriated and made available for this study.

(j) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this section.

(20 U.S.C. 1145a) Enacted October 17, 1986, P.L. 99–498, sec. 1203, 100 Stat. 1574; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1207. STUDENT REPRESENTATION.

The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this Act, include individuals who are, at the time of appointment, attending an institution of higher education.

(20 U.S.C. 1145b) Enacted October 17, 1986, P.L. 99–498, sec. 1204, 100 Stat. 1576; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1208. FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS.

Nothing in this Act or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by (1) making advance payment of such tuition and fees, (2) making deposits in an escrow account administered by such institution for such payments, or (3) obtaining a bond or other insurance that such payments will be made.

(20 U.S.C. 1145c) Enacted October 17, 1986, P.L. 99–498, sec. 1205, 100 Stat. 1577; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1209. DISCLOSURES OF FOREIGN GIFTS.

(a) DISCLOSURE REPORT.—Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

(b) CONTENTS OF REPORT.—Each report to the Secretary required by this Act shall contain:

(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the

country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

(c) ADDITIONAL DISCLOSURES FOR RESTRICTED AND CONDITIONAL GIFTS.—Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose:

(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

(d) RELATION TO OTHER REPORTING REQUIREMENTS.—

(1) STATE REQUIREMENTS.—If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

(2) USE OF OTHER FEDERAL REPORTS.—If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the Executive Branch requires a report containing requirements substantially similar to those required under this Act, a copy of this report may be filed with the Secretary in lieu of a report required under subsection (a).

(e) PUBLIC INSPECTION.—All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

(f) ENFORCEMENT.—

(1) COURT ORDERS.—Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of

any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of this Act.

(2) COSTS.—For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

(g) REGULATIONS.—The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this section.

(h) DEFINITIONS.—For the purpose of this section—

(1) the term "contract" means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term "foreign source" means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term "gift" means any gift of money or property;

(4) the term "institution" means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

(A) is legally authorized within such State to provide a program of education beyond secondary school;

(B) provides a program for which it awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits; and

(5) the term "restricted or conditional gift or contract" means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding (A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

(20 U.S.C. 1145d) Enacted July 23, 1992, P.L. 102–325, sec. 1101, 106 Stat. 794; amended December 20, 1993, P.L. 103–208, sec. 2(j)(54), 107 Stat. 2485.

SEC. 1210. APPLICATION OF PEER REVIEW PROCESS.

All applications submitted under the provisions of this Act which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(20 U.S.C. 1145d–1) Enacted June 3, 1987, P.L. 100–50, sec. 21(b), 101 Stat. 360; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1211. AGGREGATE LIMIT OF AUTHORIZATION OF APPROPRIATIONS.

Notwithstanding any other provision of this Act, the total amount which may be appropriated to carry out the programs and activities authorized by this Act, other than the programs and activities authorized by subpart 1 of part A and part B of title IV, shall not exceed—

(1) $3,166,000,000 for fiscal year 1987,
(2) $3,351,000,000 for fiscal year 1988,
(3) $3,552,000,000 for fiscal year 1989,
(4) $3,771,000,000 for fiscal year 1990, and
(5) $4,007,000,000 for fiscal year 1991.

(20 U.S.C. 1145e) Enacted October 17, 1986, P.L. 99–498, sec. 1207, 100 Stat. 1579; amended June 3, 1987, P.L. 100–50, sec. 21(b), 101 Stat. 360; amended December 20, 1993, P.L. 103–208, sec. 2(m), 107 Stat. 2486.

SEC. 1212. TECHNOLOGY TRANSFER CENTERS.

(a)(1)(A) Except as provided in subparagraph (B), there are authorized to be appropriated $15,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to develop, construct, and operate regional technology transfer centers. The Secretary shall establish such regional centers—

(i) to promote the study and development of programs and depositories necessary to further the transfer of technology relevant to a respective region's economy;

(ii) to assist in developing incubator facilities to encourage new economic initiatives;

(iii) to provide technical assistance linking university expertise and private sector resources to solve technical, marketing, and manufacturing problems associated with technology-transfer and start-up businesses; and

(iv) to ensure consideration of the economic development needs of rural as well as urban areas within the region.

(B) The Secretary shall reserve not less than $3,000,000 of amounts appropriated pursuant to subparagraph (A) for the purpose of carrying out the Training Technology Transfer Act of 1988.

(2) In carrying out the requirements of this section, regional technology-transfer centers are authorized—

(A) to build on or, where needed, develop telecommunications systems to link the centers and their affiliates with industrial users;

(B) to build on or develop necessary computer networks and data bases; and

(C) to utilize or help develop regional and national libraries.

(b) Financial assistance to each center shall be awarded competitively. Such financial assistance shall be awarded for the establishment or operation of such centers.

(c) Each regional center established shall be operated by an appropriately qualified college or university within the region, a consortium of such schools within the region, or a university-related research park or center, and such regional center shall, where deemed necessary, establish one or more affiliate centers at colleges and universities based in other States within the region.

(d) In establishing such centers, the institutions applying shall show in their application—

(1) how the center will facilitate the economy of the region;

(2) that the center's mission is compatible with the economic development plans of States in the region; and

(3) that appropriate consultation with the relevant State agencies concerned with economic development has taken place.

(e)(1) Such center also may be operated by a consortium composed of an entity or entities described in subsection (c), and an existing campus-based research entity, or other State and local agencies, nonprofit agencies, interstate higher education organizations, or, where appropriate, for-profit agencies. The Secretary, through regulation, shall determine a mechanism for assessing the percentage of operating costs paid by other members of a technology transfer consortium arrangements.

(2) For purpose of paragraph (1), the term "existing campus-based research facilities", includes agricultural research facilities, mining and minerals research facilities; forestry and wood-products research facilities, solar renewable energy research facilities, high technology facilities, and manufacturing technology research facilities.

(f) Each such center shall establish a Board to advise the center on policy. Such board shall be—

(1) representative of the States involved in the region; and

(2) consist of representatives for urban areas, rural areas, ethnic conerns, business, labor, and education.

(g)(1) Grants for each center shall be awarded for a 5-year period. Before the end of such period, the Secretary shall conduct a competition for the award of grants for the succeeding 5-year period.

(2) For the fourth and fifth year of each such 5-year period, and during any renewal of the grant for succeeding 5-year periods, 50 percent of the cost of the activities for which assistance is awarded shall be provided from non-Federal sources.

(h) Funding for affiliate centers authorized in subsection (c) shall be provided by the regional center and the college or university operating the affiliate center, with funding levels to be reached by the 2 entities in a scope-of-work agreement negotiated between the 2 entities. Should the affiliate center wish, its operations and funding support can be a consortia, as specified in subsection (e).

(i)(1) The Secretary, after consultation with the Departments of Agriculture, Energy, Commerce, and Interior shall publish, for public comment, a proposed list of priorities for the establishment of regional technology transfer centers and shall propose the regional composition of such centers, keeping in mind that satellite and telecommunications technology enables regions to contain noncontiguous States.

(2) The Secretary shall publish the final list of regions and priorities along with the public's comments. In establishing such regions, the Secretary may designate a State or a portion of a State as a region.

(20 U.S.C. 1145f) Enacted Aug. 23, 1988, P.L. 100–418, sec. 6231, 102 Stat. 1518–1520; amended December 20, 1993, P.L. 103–208, sec. 2(j)(55) and (56), (m), 107 Stat. 2485, 2486.

SEC. 1213. DRUG AND ALCOHOL ABUSE PREVENTION[1].

(a) Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless it certifies to the Secretary that it has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

(1) the annual distribution to each student and employee of—

(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;

(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (1)(A); and

(2) a biennial review by the institution of its program to—

(A) determine its effectiveness and implement changes to the program if they are needed; and

(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) Each institution of higher education that provides the certification required by subsection (a) shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) as well as the results of the biennial review required by subsection (a)(2).

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[1] Section 1213 shall take effect on Oct. 1, 1990. See P.L. 101–226, sec. 22(a)(2), 103 Stat. 1939.

(c)(1) The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

(A) the periodic review of a representative sample of programs required by subsection (a); and

(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) The sanctions required by subsection (a)(1)(E) may include the completion of an appropriate rehabilitation program.

(d) Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

(20 U.S.C. 1145g) Enacted Dec. 12, 1989, P.L. 101-226, sec. 22(a)(1), 103 Stat. 1938; amended December 20, 1993, P.L. 103-208, sec. 2(m), 107 Stat. 2486.

Higher Education Amendments of 1968

(P.L. 90–575)

AN ACT To amend the Higher Education Act of 1965, the National Defense Education Act of 1958, the National Vocational Student Loan Insurance Act of 1965, the Higher Education Facilities Act of 1963, and related Acts.

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FINANCIAL AID TO STUDENTS NOT TO BE TREATED AS INCOME OR RESOURCES UNDER CERTAIN PROGRAMS

SEC. 507. For the purpose of any program assisted under title I, IV, X, XIV, XVI, or XIX of the Social Security Act, no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education shall be considered to be income or resources.

(20 U.S.C. 1091, note) Enacted Oct. 16, 1968, P.L. 90–575, Title V, sec. 507, 82 Stat. 1063.

Education Amendments of 1972

(P.L. 92–318)

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LAND-GRANT STATUS FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 506. (a) The College of the Virgin Islands, the Community College of American Samoa, the College of Micronesia, the Northern Marianas College, and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

(b) In lieu of extending to the Virgin Islands, Guam, American Samoa, Micronesia, and the Northern Mariana Islands those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated $3,000,000 to the Virgin Islands and $3,000,000 to Guam and an equal amount to American Samoa, Micronesia, and to the Northern Mariana Islands. Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands, Guam, American Samoa, Micronesia, and the Northern Mariana Islands subject to the provisions of that Act applicable to the proceeds from the sale of land or land scrip.

(7 U.S.C. 301, note) Enacted June 23, 1972, P.L. 92–318, sec. 506, 86 Stat. 350; amended Oct. 3, 1980, P.L. 96–374, sec. 1361(a), 94 Stat. 1501; amended Aug. 27, 1986, P.L. 99–396, sec. 9(a), 100 Stat. 840; amended Feb. 24, 1992, P.L. 102–247, sec. 305, 106 Stat. 39.

Education Amendments of 1980

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TITLE XIII—MISCELLANEOUS PROVISIONS

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PART G—NEW LAND GRANT COLLEGES

AMERICAN SAMOA AND MICRONESIA LAND GRANT COLLEGES

SEC. 1361. (a)[1] * * *

(b)[2] * * *

(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa and in Micronesia in the same manner and to the same extent.

(d) Nothing in this section shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands, or the July 16, 1904 Treaty of Cession of the Manu'a Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

(7 U.S.C. 301, note) Enacted October 3, 1980, P.L. 96–374, sec. 1361, 94 Stat. 1502; amended August 27, 1986, P.L. 99–396, sec. 9(c), 100 Stat. 840.

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PART I—TECHNICAL PROVISIONS

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CONTRACT AUTHORITY

SEC. 1392. The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(20 U.S.C. 1146) Enacted October 3, 1980, P.L. 96–374, sec. 1392, 94 Stat. 1504.

EFFECTIVE DATES

SEC. 1393. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1980.

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[1] Subsection (a) of section 1361 of the Education Amendments of 1980 amended section 506 of the Education Amendments of 1972.

[2] Subsection (b) of section 1361 of the Education Amendments of 1980 amended section 5 of the Second Morrill Act.

(b)(1) The amendment made by section 301 of this Act to title III of the Act shall take effect October 1, 1981.

(2) The amendment made by section 404(c)(4) of this Act to section 415C(b)(4) of the Act shall be effective October 1, 1979.

(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act shall take effect October 1, 1981.

(4) The amendments made by part B of title IV of this Act shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendments take effect, except that the amendments made by section 415(b) shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 on the date on which the borrower enters into the note or other written evidence of the loan.

(5) The amendments made by part D of title IV of this Act shall apply to loans made under part E of the Act on or after October 1, 1980.

(6) The amendment made by section 701 of this Act adding section 731 of the Act shall apply to loans made under section 731 on or after October 1, 1980.

(20 U.S.C. 1001, note) Enacted October 3, 1980, P.L. 96–374, sec. 1393, 94 Stat. 1504.

Higher Education Amendments of 1986

TITLE IV—STUDENT ASSISTANCE

SEC. 401. STUDENTS GRANTS REAUTHORIZED.

(a) AMENDMENT.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), sections 411A through 411F of the Act as amended by this section shall apply with respect to the determination of need for Pell Grants for academic years beginning with academic year 1988–1989. With respect to any preceding academic year, such determinations shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982.

(2) The definition of independent student contained in section 411F(12) of the Act as amended by this section shall apply with respect to the determination of such need for academic years beginning with academic year 1987–1988.

(3) Section 411(c) of the Act as amended by this section shall apply only to individuals who receive a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987.

(4) Section 411(f) of the Act as amended by this section shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987.

(5) Section 413C(c)(2) of the Act as amended by this section shall apply to the awarding of grants under subpart 2 of part A of title IV of the Act for periods of enrollment beginning on or after July 1, 1987.

(6) The changes made in section 413D of the Act shall apply with respect to the allocation of funds for the academic year 1988–1989 and succeeding academic years.

(7) The changes made in section 417D of the Act shall apply with respect to grants awarded under such section in fiscal year 1988 or any succeeding fiscal year.

[2]SEC. 402. EXTENSION OF GUARANTEED STUDENT LOAN PROGRAM.

(a) AMENDMENT.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) Effective Dates.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part B;

(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;

(3) the changes made in sections 425(a), 428(b)(1)(A), and 428(b)(1)(B) of the Act shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

(4) the changes made in subsections (a), (b), and (d) of section 433 of the Act shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

(5) the changes in section 428(b)(1)(H) shall apply with respect only to loans for which the borrower files an application on or after July 1, 1987;

(6) the changes in sections 435(d)(5) and 438(d) of the Act shall take effect 30 days after the date of enactment of this Act; and

(7) the changes made in section 438(b) shall take effect with respect to loans disbursed on or after 30 days after the date of enactment of this Act or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after the date of enactment of this Act.

(c) Changes Effective Without Regard to Regulations; Republication of Regulations.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for the purpose of such part.

(d) New Borrowers.—For the purpose of this section, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act.

SEC. 403. WORK STUDY REAUTHORIZED.

(a) Amendment.—Part C of title IV of the Act is amended to read as follows:

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[Text as amended printed earlier in this volume.]

(b) Effective Dates.—(1) Section 442 of the Act shall apply with respect to the allocation of funds for academic year 1988–1989 and succeeding academic years.

(2) Sections 443(c), 446, and 447 of the Act as amended by this section shall apply to periods of enrollment beginning on or after July 1, 1987.

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SEC. 405. AMENDMENT TO PART E OF THE ACT.

(a) AMENDMENT.—Part E of title IV of the Act is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) EFFECTIVE DATES.—(1) Section 462 of the Act shall apply with respect to academic year 1988–1989 and succeeding academic years.

(2) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date.

(3) Section 463(a)(9) and section 463A of the Act as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

(4) For the purpose of this subsection, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act.

SEC. 406. ADDITION OF A NEW PART F RELATING TO NEED ANALYSIS FOR STUDENT ASSISTANCE.

(a) AMENDMENT.—Title IV of the Act is further amended by redesignating part F as part G and by inserting after part E the following new part:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) EFFECTIVE DATES FOR NEED ANALYSIS PROVISIONS.—(1) Except as provided in paragraphs (2) through (4)—

(A) part F of title IV of the Act shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988–1989 and succeeding academic years; and

(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982.

(2) With respect to an application filed after the date of enactment of this Act for a loan under part B of such title for any academic year preceding academic year 1988–1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title.

(3) For purposes of sections 413D(d)(2)(B), 442(d)(2)(B) and 462(d)(2)(B) for any academic year preceding academic year 1988–1989, the Secretary shall, in lieu of average expected family con-

tribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986–1987, adjusted to reflect changes in data.

(4) Section 479B of the Act (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment.

(5) The definition of independent student contained in section 480(d) of the Act as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987 programs operated under part B of title IV of the Act, or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title.

SEC. 407. REVISION OF STUDENT ASSISTANCE GENERAL PROVISIONS.

(a) AMENDMENT.—Part G of title IV of the Act (as redesignated by section 406) is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) EFFECTIVE DATES.—(1) Sections 483(e) and 484(d) of the Act as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

(2) The changes made in section 484(a)(1) of the Act shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

(3) Section 484(c) of the Act as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

(4) Sections 484(f), 485(b), and 487(a)(10) of the Act as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987.

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TITLE XIII—EDUCATION ADMINISTRATION

PART A—SECRETARIAL STUDIES AND EVALUATIONS

SEC. 1301. SATISFACTORY PROGRESS.

The Secretary, through the Office of Educational Research and Improvement, shall conduct a survey on the impact, if any, on grades of students of the amendments made by this Act to section 484(c) of the Act. The study required by this subsection shall be conducted over the 5-year period ending September 30, 1991. The Secretary, after the end of each year of the study, shall submit to the Congress a report of the survey required by this subsection, together with such recommendations as the Secretary deems appropriate.

(20 U.S.C. 1091 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1301, 100 Stat. 1579; amended June 3, 1987, P.L. 100–50, sec. 23(1), 101 Stat. 362.

SEC. 1302. NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES.

(a) STUDY REQUIRED.—The Secretary shall, in consultation with the Director of the United States Information Agency, the Director of the Agency for International Development, the Secretary of State, and the Secretary of Defense, conduct a study on the establishment of a National Endowment for International Studies. The study shall develop a program, a funding plan, and priorities for such an Endowment.

(b) CONDUCT OF STUDY.—In carrying out the study required by this section, the Secretary shall consider—

(1) the extent of the need for international studies programs at all educational levels, not served by title VI of the Act;

(2) the programs at the Agency for International Development, the United States Information Agency, and the Departments of State, Defense, and Education which can be coordinated to increase the scope and number and kinds of participants in international educational programs;

(3) the feasibility of an Endowment for International Studies, by whom it shall be administered, and procedures for receiving corporate and other private contributions for supplemental funding, similar to Treasury fund accounts at other Federal agencies; and

(4) a comprehensive evaluation of the weaknesses and strengths in international education and foreign language training at all levels of education in our Nation and the role of the Endowment to remedy these weaknesses, and encourage expansion of these strengths.

(c) REPORT.—The Secretary shall prepare and submit to the Congress, not later than one year after the date of enactment of this section, a report on the study required by this section, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

(20 U.S.C. 1121 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1302, 100 Stat. 1580; amended June 3, 1987, P.L. 100–50, sec. 23(2), 101 Stat. 362.

SEC. 1303. DATA STUDY REQUIRED.

(a) CONDUCT OF STUDIES.—The Secretary, through the Office of Education Research and Improvement, shall conduct the studies required by this section and submit reports thereon to the Congress not later than September 30, 1990. The reports shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

(b) COST STUDY REQUIRED.—(1) The Secretary shall conduct a study on the escalating cost of higher education. The study required by this section shall—

(A) identify the current cost of obtaining a higher education and determine how that cost has changed in recent years,

(B) determine the specific causes of such changes in cost and the extent to which those causes have contributed to such changes,

(C) forecast the future cost of obtaining a higher education with consideration given to prospective demographic changes in student enrollments,

(D) evaluate the impact of such changes in cost on institutions of higher education, their students, and lower- and middle-income families,

(E) make recommendations on how such changes in cost can be minimized in the future, and

(F) outline State and Federal policy options which may help to minimize such changes in cost in the future.

(2) In conducting such study, the Secretary shall give special consideration to the impact of escalating costs on lower- and middle-income students and families, the impact of escalating costs on female and minority students, the impact of escalating costs on the career choices made by students, and the relationship between escalating costs and the Federal student financial assistance programs.

(3) During the conduct of such study, the Secretary shall consult frequently with the Chairman of the Senate Committee on Labor and Human Resources and the Chairman of the House Committee on Education and Labor.

(c) STUDENT AID RECIPIENT SURVEY.—(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

(A) to identify the population of students receiving Federal student aid;

(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

(E) to disseminate such information in both published and machine readable form.

(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the postsecondary education community.

(d) TEACHER SUPPLY AND DEMAND.—(1) The Secretary shall utilize the legislative authority under section 406(b) of the General Education Provisions Act to annually assess current and future supply and demand for teachers with particular attention to—

(A) long-term and short-term shortages of personnel in various subject areas or teaching specialties;

(B) shortages in particular States or regions;

(C) the number of minorities entering teaching;

(D) the number of women and minorities entering educational administration;

(E) the effect of State curriculum and graduation requirements on the need for teachers in each State;

(F) the extent to which demographic characteristics of persons currently employed as teachers and persons studying to be teachers match the characteristics of the students in each State (race, age, sex);

(G) the academic qualifications of prospective teachers and the academic preparation of persons currently preparing to be teachers;

(H) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

(I) an assessment of new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for preparing an adequate supply of vocational teachers of handicapped students, with added emphasis on the preparation required to teach combined classrooms of handicapped, or other highly targeted groups of students and other students within a vocational education setting.

(2) The analysis conducted under this subsection may include assessment of other educational needs identified by the Congress, including an assessment of the need for instructional equipment and materials in elementary and secondary schools and in institutions of higher education.

(e) Equitable Student Aid for Farm Families.—The Secretary shall conduct a study of financial aid formulas under title IV of the Act for students in postsecondary educational institutions with special attention to devising a more equitable formula for farm families.

(f) There are authorized to be appropriated $2,700,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of this section.

(20 U.S.C. 1221e–1 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1303, 100 Stat. 1580–1582; amended June 3, 1987, P.L. 100–50, sec. 23(3)(A)–(D), 101 Stat. 362.

SEC. 1304. EVALUATION OF CONTINUING EDUCATION.

(a) Evaluation.—The Secretary shall enter into a contract with a qualified entity to study and evaluate the programs established under part A of title I of this Act.

(b) Secretary's Responsibilities.—The Secretary shall assist in evaluating the status and progress of adult education and postsecondary continuing education in achieving the purposes of this title. Such assistance shall include—

(1) an analysis of the findings of the report under subsection (a) together with suggestions for improvements in planning or program operation; and

(2) the provision of an information network on research in adult and continuing education, the operation of model or innovative programs, successful experiences in the planning, administration, and conduct of adult and continuing education programs, and advances in curriculum and instructional practices and technologies.

(c) Report.—Not later than January 1, 1990, the Secretary shall submit a report to the Congress on the program evaluations required under this section and on any progress in fulfilling the goals and purposes of title I of the Act. The Secretary may include in the report appropriate recommendations or legislative proposals.

(20 U.S.C. 1011 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1304, 100 Stat. 1582; amended June 3, 1987, P.L. 100–50, sec. 23(4)(A)–(D), 101 Stat. 362.

SEC. 1305. STUDY OF BANKRUPTCY TREATMENT OF STUDENTS.

The Secretary shall conduct a study of the treatment of students under chapter 13 of title 11, United States Code, relating to the discharge of student loan indebtedness in bankruptcy proceedings, and of the effect of including such students under that provision of that law. The Secretary shall prepare and submit a report to the Congress on the study required by this section not later than 3 months after the date of enactment of this Act.

Enacted Oct. 17, 1986, P.L. 99–498, sec. 1305, 100 Stat. 1582.

SEC. 1306. STUDY OF PELL GRANT LESS THAN HALF-TIME STUDENTS.

The Secretary shall conduct a study to determine the number of less than half-time students who would be eligible for Pell grants by reason of having an expected family contribution of $0 and by reason of having an expected family contribution of $0–$200 for the appropriate academic years. The Secretary shall prepare and submit a report to the Congress not later than September 30, 1988, on the results of the study required by this section.

(20 U.S.C. 1070a note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1306, 100 Stat. 1582.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of sections 1301 and 1302.

Enacted Oct. 17, 1986, P.L. 99–498, sec. 1307, 100 Stat. 1583; amended June 3, 1987, P.L. 100–50, sec. 23(5) (A) and (B), 101 Stat. 362.

PART B—GENERAL ACCOUNTING OFFICE REPORTS

SEC. 1311. STUDY OF PRACTICES OF STATE GUARANTY AGENCIES AND MULTISTATE GUARANTORS UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

(a) STUDY REQUIRED.—The Comptroller General shall conduct a complete study of the practices of State guaranty agencies and multistate guarantors under the guaranteed student loan program authorized by part B of title IV of the Act. The study shall investigate, on a comparative basis—

(1) due diligence practice of lenders;

(2) default rates and recovery rates on student loans;

(3) changes in loan volume;

(4) methods of soliciting student borrowers;

(5) potential for fraudulent double borrowing by students;

(6) participation agreements between the types of guarantor and lenders;

(7) eligible institution participation agreements;

(8) adequacy of reserved funds in relation to guaranty commitments made by the agency and the default risk which such commitments represent, as reflected by the socio-economic background of the borrowers, the category of institution attended, and the historical experience of the agency;

(9) types of services provided to lenders, eligible institutions, and borrowers;

(10) use of funds generated through participation in the guaranteed student loan program by amount and nature of ex-

penses for administrative support for programs other than the guaranteed student loan program;

(11) to what extent the guarantors meet the requirements of truth-in-lending provisions;

(12) profile of borrowers and defaulters of loans guaranteed by the agency and an assessment of the default risks inherent in such loans;

(13) coordination of the loan guaranty program with grant programs;

(14) general student access to loan assistance; and

(15) need for administrative cost allowances by particular guaranty agencies in relation to the default risk faced by the agency, the administrative costs incurred, or needed to be incurred by the agency, and other factors relevant to the cost of guaranteeing loans under the program.

(b) REPORT.—The Comptroller General of the United States shall prepare and submit a report, not later than 2 years after the date of enactment of this Act, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives on the findings of the study required by subsection (a) of this section, together with such recommendations as the Comptroller General deems appropriate.

(20 U.S.C. 1071 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1311, 100 Stat. 1583.

SEC. 1312. STUDY OF USE OF MULTIPLE-YEAR LINES OF CREDIT.

The Comptroller General shall evaluate the feasibility and efficiency of permitting students to establish lines of credit with eligible lenders under part B of title IV of the Act that cover more than 2 years of attendance at an institution of higher education. Such evaluation shall determine the extent to which such an arrangement would reduce the administrative costs associated with making separate loans annually under such part. In conducting such evaluation, the Comptroller General shall consult institutions of higher education and eligible lenders under such part. Within 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the results of such evaluation together with such recommendations as the Secretary considers appropriate.

(20 U.S.C. 1071 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1312, 100 Stat. 1584.

SEC. 1313. STUDY OF MULTIPLE DISBURSEMENT.

The Comptroller General shall evaluate the impact of the multiple disbursement system required for student loans under part B of title IV of the Act on the ability of both students and institutions of higher education to meet their expenses as they arise. Such evaluation shall include an assessment of any other impacts of such system on such students or institutions that the Comptroller General determines to be significant. A report on the results of such evaluation shall be submitted to the Congress not later than 2 years after the date of enactment of this Act.

(20 U.S.C. 1071 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1313, 100 Stat. 1584.

SEC. 1314. STUDENT LOAN CONSOLIDATION.

The Comptroller General shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this Act to part B of title IV of the Act and shall report to the Congress not later than 2 years after the date of enactment of this Act on the findings and recommendations required by this subsection. Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors to maintain or report records relating to the loans discharged by borrowers in receiving a consolidation loan pursuant to section 428C of the Act.

(20 U.S.C. 1071 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1314, 100 Stat. 1584; amended June 3, 1987, P.L. 100–50, sec. 23(6), 101 Stat. 362.

PART C—COSTS OF POSTSECONDARY EDUCATION

SEC. 1321. NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION.

(a) FINDINGS.—The Congress finds—

(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and the Nation's economic potential, its strength, security, and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

(2) that it is the responsibility of the Federal Government to establish a clearly defined national policy regarding—

(A) the role and expectations of respective institutions in society (the family unit, institutions of higher education, government, and the individual in financing the costs of postsecondary education); and

(B) the most efficient and effective use of limited Federal, State, and private resources for supplementing the family effort in financing postsecondary education and for creating incentives for individuals and families to plan for financing postsecondary education; and

(3) the appropriate response to economic, budgetary, demographic, and social changes which will require individuals, families, institutions of higher education, and government to plan and adapt to the future needs for student financial assistance for postsecondary education.

(b) ESTABLISHMENT OF THE COMMISSION.—(1) There is established as an independent agency in the executive branch a commission to be known as the National Commission on Responsibilities for Financing Postsecondary Education (hereafter in this section referred to as the "Commission").

(2) The Commission shall be composed of 9 members, 3 of whom shall be appointed by the President, 3 of whom shall be appointed by the Speaker of the House of Representatives, and 3 of whom shall be appointed by the majority leader of the Senate. The membership of the Commission shall provide expertise and experience in the provision and financing of postsecondary education, including student financial aid administrators, secondary school administrators, individuals skilled in education economics research,

individuals having expertise in the development of standards and systems of need analysis for student assistance programs, and individuals with particular expertise in credit financing for postsecondary education.

(c) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall study and investigate the extent to which—

(A) there is a consistent and coherent Federal policy regarding the appropriate family role in financing the costs of postsecondary education for family members;

(B) the current Federal laws and regulations promote the stated Federal policy; and

(C) the extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area.

(2) REPORT AND RECOMMENDATIONS.—The Commission shall—

(A) summarize the appropriate findings of the National Commission on Student Financial Assistance;

(B) recommend to the Congress a comprehensive analysis on the extent to which a consensus exists regarding the appropriate role of the family in financing postsecondary education; and

(C) to the extent that a consensus exists, recommend changes in current law that would be required to achieve the desired Federal policy, including recommendations on Federal incentives to encourage families to plan and save for their financial responsibilities in financing postsecondary education for family members taking into account the needs of future generations.

(d) SPECIFIC REQUIREMENTS.—In carrying out its responsibilities under subsection (c), the Commission shall make a study of the following areas:

(1) NEED ANALYSIS.—

(A) The most appropriate mechanisms for measuring student and family ability to pay for postsecondary education.

(B) The incentives and disincentives for family saving in existing need analysis systems.

(C) The feasibility and impact of different need analysis systems and eligibility formulas for determining student and family contributions for Federal and non-Federal grant, loan, and work-study programs.

(D) The extent to which existing systems of need analysis take into account the circumstances of older and nontraditional students, students with minor dependents, and divorced and separated parents.

(E) The extent to which existing systems of need analysis recognize differing regional economic conditions.

(F) The feasibility of a simplified need analysis system for determining ability to pay for low-income families, economically disadvantaged families, and families receiving public assistance benefits.

(G) The postsecondary education financing partnership, and the impact of external influences, such as economic conditions or State-level initiatives, that affect the balance of financial support among students and their families, the Federal Government, States, postsecondary institutions, credit institutions, and the private sector.

(2) STUDENT INDEPENDENCE.—The most appropriate mechanisms and factors to be considered in determining student independence and self-support and in determining when families should be expected to provide parental financial information in determining expected family contributions for Federal student assistance programs.

(3) PARENTAL RESPONSIBILITY.—In consultation and cooperation with associations of higher education institutions and administrators, secondary schools, student and parent associations, and other organizations, the most effective means of reinforcing and promoting the principle of parental responsibility for contributing, to the extent that they are able, to the costs of their children's postsecondary education.

(4) STUDENT RESPONSIBILITY.—The most effective mechanisms for measuring student ability to contribute to educational cost through earnings and savings, the extent to which such mechanisms reflect the circumstances of students from disadvantaged families, and the existing levels of student contributions from past, current, and future earnings.

(5) INSTITUTIONAL RESPONSIBILITY.—The most effective mechanisms of reinforcing and promoting the principle of institutional responsibility for providing need-based aid to students attending postsecondary institutions.

(6) GOVERNMENTAL RESPONSIBILITY.—The most efficient and appropriate mechanisms for providing student assistance from the various levels of government.

(7) EARLY INFORMATION, PLANNING, AND INFORMATION TECHNOLOGY.—The extent to which programs providing early information on postsecondary education, costs, and financial aid programs to students and their families influence educational opportunity and family saving.

(e) ADMINISTRATION OF THE COMMISSION.—

(1) RATE OF PAY.—Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the rate specified at the time of such service for Grade GS–18 of the General Schedule as authorized by section 5332 of title 5, United States Code, for each day, or any part of a day, they are engaged in the actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses, including per diem in lieu of susbsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(2) TEMPORARY EXEMPTION.—Subject to such rules as may be adopted by the Commission, the Chairperson, without re-

gard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

(A) appoint a Director or Executive Director who shall be paid at a rate not to exceed the rate of basic pay for GS–18 of the General Schedule; and

(B) appoint and fix the compensation at a rate not to exceed the rate payable at the GS–18 rate of such other personnel as the Chairperson considers necessary.

(3) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, as amended, the Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.

(4) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll, and personnel) shall be provided to the Commission by the General Services Administration (or other appropriate organization) for which payment shall be made in advance or by reimbursement, from funds of the Commission, in such amounts as may be agreed by the Chairperson of the Commission and the Administrator of General Services.

(5) AUTHORITY TO HIRE EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS–18. Experts and consultants may be employed without compensation if they agree to do so in advance.

(6) AUTHORITY FOR DETAIL OF EMPLOYEES.—Upon request of the Commission, the head of any Federal agency is authorized to detail on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.[1]

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $1,000,000.

(g) TERMINATION.—The Commission shall terminate 2 years after the first meeting of the members.

(20 U.S.C. 1221–1 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1321, 100 Stat. 1584–1586; amended July 6, 1990, P.L. 101–324, secs. 1 and 2, 104 Stat. 300–301.

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[1] Section 306 of P.L. 102–170, 105 Stat. 1136, stated the following: subsection (e) of section 1321 of the Higher Education Act of 1965 (20 U.S.C. 1221–1(e)) is amended by inserting at the end thereof the following new paragraph:

"(7) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of money, gifts or donations of services or property.".

This amendment probably should have been made to the Higher Education Amendments of 1986.

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PART D—LIBRARY RESOURCES

SEC. 1331. STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED.

(a) STUDY REQUIRED.—The National Commission on Libraries and Information Sciences shall conduct a study on the effectiveness in directing assistance to libraries with the greatest need of the needs criteria specified in section 211 of the Act.

(b) REPORT TO CONGRESS.—The National Commission on Libraries and Information Sciences shall prepare and submit a report to the Congress not later than 3 years after the conclusion of the first fiscal year in which appropriations are made for the College Library Resource Program authorized by section 211 of the Act, together with such recommendations as the Commission on Libraries and Information Sciences deems appropriate.

(20 U.S.C. 1029 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1331, 100 Stat. 1587.

PART E—NATIONAL ACADEMY OF SCIENCES STUDY

SEC. 1341. VOLUNTEERS.

(a) STUDY REQUIRED.—The National Academy of Sciences shall conduct a thorough study of how volunteers can best be used in the classroom. The study required by this section shall include—

(1) the feasibility of using recipients of student loans made, assured, or guaranteed under part B of title IV of the Act or part E of such title as part of repayment of such loans;

(2) the use of older Americans as such volunteers;

(3) the use of business persons and other professionals as volunteers; and

(4) the place of incentives to encourage volunteerism.

The study required by this section shall examine the methods of using volunteers designed to provide the greatest flexibility for local educational agencies.

(b) REPORT REQUIRED.—Not later than one year after the date of entering into a contract with the Department of Education for the study described in this section, the National Academy of Sciences shall prepare and submit to the Congress a report, together with a description of programs on the use of volunteers and with such recommendations as deemed appropriate.

(c) AVAILABILITY OF FUNDS.—The Secretary shall, from funds available for the administration of the Department of Education, make available not to exceed $500,000 for the study required by this section.

(20 U.S.C. 1221–l note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1341, 100 Stat. 1587; amended June 3, 1987, P.L. 100–50, sec. 23(7), 101 Stat. 362.

PART F—FAULKNER UNIVERSITY

SEC. 1351. RELIEF OF LIABILITY.

(a) RELIEF OF LIABILITY.—Faulkner University (formerly Alabama Christian College) of Montgomery, Alabama, is relieved of all liability—

(1) to repay to the United States the sum of $147,681.39, plus accrued interest, and

(2) to pay $7,822.50 to the National Direct Student Loan Fund of the Faulkner University,

representing payments inadvertently made pursuant to subpart 1 and subpart 2 of part A and part C of title IV of the Higher Education Act of 1965 and direct student loans inadvertently made under part E of such title IV prior to the receipt of eligibility status for the junior and senior years of the baccalaureate degree programs offered by Faulkner University. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this section.

(b) SPECIAL RULE.—For the purpose of part B of title IV of the Higher Education Act of 1965, each student in attendance at the Faulkner University of Montgomery, Alabama, receiving a federally insured loan for the academic year 1981–1982 and for the academic year 1982–1983 pursuant to such part B shall be deemed to be in attendance at an eligible institution for that academic year.

Enacted Oct. 17, 1986, P.L. 99–498, sec. 1351, 100 Stat. 1587–1588.

PART G—ALIEN YOUTH EDUCATION OPPORTUNITY PANEL

SEC. 1361. DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS.

(a) ESTABLISHMENT OF PANEL.—(1) There is established in the Department of Education a panel to be known as the "Alien Youth Education Opportunity Panel" (hereafter in this section referred to as the "Panel").

(2) The Panel shall be composed of 7 members, 3 of whom shall be appointed by the Secretary, 2 of whom shall be appointed by the Speaker of the House of Representatives, and 2 of whom shall be appointed by the Majority Leader of the Senate.

(b) DUTIES OF PANEL.—The Panel shall study and investigate the extent to which the requirements of section 484(a)(5) of the Act result in the denial of student assistance to long-term residents of the United States who have graduated from United States high schools and the extent to which that denial deprives those individuals of an equal educational opportunity.

(c) REPORT AND RECOMMENDATIONS.—The Panel shall submit a report of its findings and recommendations to the Secretary, the President, and the Congress not later than 2 years after the date of enactment of this section.

(d) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Secretary shall provide the Panel with such administrative and clerical support as it may require to carry out its activities under this section.

(e) COMPENSATION AND EXPENSES.—(1) Members of the Panel who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Panel who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Panel meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) ACCESS TO INFORMATION.—The Panel is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Panel.

(20 U.S.C. 1091 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1361, 100 Stat. 1588–1589.

PART H—BOSTON COLLEGE

SEC. 1371. DEBT PROVISION.

The Secretary is directed to cancel all annual debt service obligations of the receiving institution for fiscal years 1987, 1988, 1989, and 1990 of which the total amount to be cancelled shall not exceed $2,700,000 adjusted as required in fiscal year 1990, for the Department of Education Project Loan #5-1-00665-0 dated August 5, 1981, and shall adjust the loan agreement to reflect the change required by this section without any other provision of law being applicable.

Enacted Oct. 17, 1986, P.L. 99–498, sec. 1371, 100 Stat. 1589.

PART I—CARL ALBERT CONGRESSIONAL RESEARCH AND STUDIES CENTER

SEC. 1381. APPROPRIATION PROVISION.

Funds appropriated in Public Law 97–377 under the heading "HIGHER AND CONTINUING EDUCATION", for the Carl Albert Congressional Research and Studies Center, under the terms of H.R. 3598 (97th Congress) shall be available as a direct appropriation without regard to section 4(a) of H.R. 3598 (97th Congress).

Enacted Oct. 17, 1986, P.L. 99–498, sec. 1381, 100 Stat. 1589.

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TITLE XV—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

SEC. 1501. SHORT TITLE.

This title may be cited as the "American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act".

(20 U.S.C. 4401 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1501, 100 Stat. 1600.

SEC. 1502. FINDINGS.

The Congress finds that—

(1) Indian art and culture and Native Hawaiian art and culture have contributed greatly to the artistic and cultural richness of the Nation;

(2) Indian art and culture and Native Hawaiian art and culture occupy a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental positive influence on the American people;

(4) although the encouragement and support of Indian and Native Hawaiian arts and crafts are primarily a matter for private, local, and Indian and Native Hawaiian initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and Native Hawaiian art and culture and to complement programs for the advancement of such art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Indian art and culture and Native Hawaiian art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture, it is desirable to establish—

(A) a national Institute of American Indian and Alaska Native Culture and Arts Development, and

(B) a program for Native Hawaiian culture and arts development.

(20 U.S.C. 4401) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1502, 100 Stat. 1600.

SEC. 1503. DEFINITIONS.

For the purpose of this title—

(1) The term "Indian art and culture" includes (but is not limited to) the traditional and contemporary expressions of Indian language, history, visual and performing arts, and crafts.

(2) The term "Native Hawaiian art and culture" includes the traditional and contemporary expressions of Native Hawaiian language, history, visual and performing arts, and crafts.

(3) The term "Institute" means the Institute of American Indian and Alaska Native Culture and Arts Development established by this title.

(4) The term "Indian" means any person who is a member of an Indian tribe.

(5) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(6) The term "Native Hawaiian" means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Board" means the Board of Trustees of the Institute established under this title.

(20 U.S.C. 4402) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1503, 100 Stat. 1600–1601.

PART A—AMERICAN INDIANS AND ALASKA NATIVES

SEC. 1504. ESTABLISHMENT OF INSTITUTE.

(a) IN GENERAL.—There is hereby established a corporation to be known as the "Institute of American Indian and Alaska Native Culture and Arts Development", which shall be under the direction and control of a Board of Trustees established under section 1505.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The corporation established under subsection (a) shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

(20 U.S.C. 4411) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1504, 100 Stat. 1601.

SEC. 1505. BOARD OF TRUSTEES.

(a) COMPOSITION.—

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) Subject to the provisions of subsection (i), the voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate, not later than 180 days after the date of enactment of this Act, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views, and diverse fields of expertise, including finance, law, fine arts, and higher education administration.

(B) The nonvoting members shall consist of—

(i) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives;

(ii) 2 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader of the Senate;

(iii) the President of the Institute, ex officio; and

(iv) the president of the student body of the Institute, ex officio.

(2) In making appointments pursuant to paragraph (1)(A), the President of the United States shall—

(A) consult with the Indian tribes and the various organizations of Indians;

(B) publish in the Federal Register an announcement of the expiration of terms no less than 4 months before such expiration;

(C) solicit nominations from Indian tribes and various Indian organizations to fill the vacancies;

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board; and

(E) ensure that a majority of the Board appointed under paragraph (1)(A) are Indians.

(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received.

(4) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(b) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 6 years.

(2) The terms of office on the Board for the Members of the House of Representatives and of the Senate shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members of the Board first appointed under subsection (a)(1)(A)—

(A) 4 shall be appointed for terms of office of 2 years;

(B) 4 shall be appointed for terms of office of 4 years; and

(C) 5 shall be appointed for terms of office of 6 years,

as determined by the drawing of lots during the first meeting of the Board.

(4) No member of the Board appointed under subsection (a)(1)(A) shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) VACANCIES.—Any member of the Board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B), a replacement shall be appointed in the same manner in which the original appointment was made.

(d) REMOVAL.—No member of the Board may be removed during the term of office of such member except for just and sufficient cause.

(e) CHAIRMAN AND VICE CHAIRMAN.—The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1)(A). Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. Thereafter, the Chairman and Vice Chairman shall be elected from among the members of the Board appointed pursuant to subsection (a)(1)(A) and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1)(A), and the member filling such vacancy shall serve for the remainder of the unexpired term.

(f) QUORUM.—Unless otherwise provided by the bylaws of the Institute, a majority of the members appointed under subsection (a)(1)(A) shall constitute a quorum.

(g) POWERS.—The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this title, including the organization and procedures of the Board.

(h) COMPENSATION.—Members of the Board appointed pursuant to subsection (a)(1)(A) shall, for each day they are engaged in the performance of the duties under this title, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(i) APPOINTMENT EXCEPTION FOR CONTINUITY.—

(1) In order to maintain the stability and continuity of the Board, the Board shall have the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4), relating to continuation of service pending replacement, shall continue to apply.

(20 U.S.C. 4412) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1505, 100 Stat. 1601–1603; amended July 23, 1992, P.L. 102–325, sec. 1331, 106 Stat. 805, amended July 23, 1992, P.L. 102–325, sec. 1331(a), 106 Stat. 805.

SEC. 1506. EXECUTIVE BOARD.

(a) COMPOSITION.—The Board shall have an Executive Board composed of—

(1) the chairman of the Board;

(2) the vice chairman of the Board;

(3) the secretary of the Board;

(4) the treasurer of the Board; and

(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) VACANCIES.—In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) MEETINGS.—The Executive Board shall hold not more than 4 regular meetings per calendar year. Special meetings may be held upon the call of the chairman or 3 members of the Executive Board.

(d) QUORUM.—A majority of the Executive Board shall constitute a quorum.

(e) POWERS.—The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

(20 U.S.C. 4413) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1506, 100 Stat. 1603.

SEC. 1507. GENERAL POWERS OF THE BOARD.

(a) IN GENERAL.—In carrying out the provisions of this title, the Board shall have the power, consistent with the provisions of this title—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract without regard to section 3324 of title 31, United States Code;

(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 1519, if the ventures are related to and further the mission of the Institute;

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(6) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this title and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(7) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(8) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel

expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(9) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(10) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(11) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this title;

(12) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses;

(13) to use any funds or property received by the Institute to carry out the purpose of this title, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 1531 for investment, without regard to any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds;

(14) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this title and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

(b) ACCOUNTING FOR NON-FEDERAL FUNDS.—Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.

(c) INTEREST AND INVESTMENTS.—Interest and earnings on amounts received by the Institute pursuant to section 1531 invested under subsection (a)(12) shall be the property of the Institute and shall be expended to carry out this title. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12).

(20 U.S.C. 4414) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1507, 100 Stat. 1603–1604; amended November 29, 1990, P.L. 101–644, sec. 501, 104 Stat. 4668; amended July 23, 1992, P.L. 102–325, sec. 1331(b), 106 Stat. 806; amended December 20, 1993, P.L. 103–208, sec. 2(l), 107 Stat. 2486.

SEC. 1508. PRESIDENT OF THE INSTITUTE.

(a) APPOINTMENT.—The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) COMPENSATION.—The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS–18 of the General Schedule.

(20 U.S.C. 4415) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1508, 100 Stat. 1604; amended Apr. 28, 1988, P.L. 100–297, sec. 5406, 102 Stat. 417.

SEC. 1509. STAFF OF INSTITUTE.

(a) EXEMPTION FROM CIVIL SERVICE.—Except as otherwise provided in this section, title 5, United States Code, shall not apply to the Institute.

(b) APPOINTMENT AND COMPENSATION.—

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the Institute deems necessary for the efficient administration of the Institute.

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5, United States Code applies. If the Board determines that such action is necessary for purposes of recruitment or retention of officers or employees necessary to the functions of the Institute, the Board is authorized, by formal action, to establish a rate of, or a range for, basic compensation that is comparable to the rate of compensation paid to officers or employees having similar duties and responsibilities in other institutions of higher education.

(3)(A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) APPEAL TO BOARD.—Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) NO REDUCTION IN CLASSIFICATION OR COMPENSATION.—Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(e) LEAVE.—

(1) Any individual who—

(A) elects under subsection (g) to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b), with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) APPLICABILITY.—This section shall apply to any individual appointed after the date of enactment of this title for employment in the Institute. Except as provided in subsections (d) and (g), the enactment of this title shall not affect—

(1) the continued employment of any individual employed immediately before the date of enactment of this title, or

(2) such individual's right to receive the compensation attached to such position.

(g) TERMINATION OF CIVIL SERVICE POSITIONS.—

(1) On June 30, 1989, any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5, United States Code, may elect to continue to be subject to such subchapter, and any such individual

who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) COLLECTIVE BARGAINING.—The Institute shall be considered an agency for the purpose of chapter 71 of title 5, United States Code.

(i) WORKMEN'S COMPENSATION.—Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5, United States Code.

(20 U.S.C. 4416) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1509, 100 Stat. 1604–1606; amended April 28, 1988, sec. 5406(a), 102 Stat. 417; amended July 23, 1992, P.L. 102–325, sec. 1331(c), 106 Stat. 806.

SEC. 1510. FUNCTIONS OF THE INSTITUTE.

(a) PRIMARY FUNCTIONS.—The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, Indian art and culture, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

(b) ADMINISTRATIVE ENTITIES.—

(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

(3) The Board shall establish, within the Institute, departments for the study of culture and arts and for research and exchange, and a museum. The Board shall establish the areas of competency for the departments created under this paragraph, which may include (but are not limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature and Museology and a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.

(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute.

(c) OTHER PROGRAMS.—In addition to the centers and programs described in subsection (b), the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Indian art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Indian art and culture; and

(3) coordinate efforts to preserve, support, revitalize, and develop evolving forms of Indian art and culture.

(20 U.S.C. 4417) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1510, 100 Stat. 1606–1607; amended November 29, 1990, P.L. 101–644, sec. 502, 104 Stat. 4668–69; amended July 23, 1992, P.L. 102–325, sec. 1331(d), 106 Stat. 807.

SEC. 1511. INDIAN PREFERENCE.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Institute is authorized to develop a policy or policies for the Institute to extend preference to Indians in—

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

(b) HIRING PREFERENCE.—In carrying out section 1509(b)(1), the President of the Institute shall, to the maximum extent practicable, give preference in hiring to Indians.

(20 U.S.C. 4418) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1511, 100 Stat. 1607; amended July 23, 1992, P.L. 102–325, sec. 1331(e), 106 Stat. 807.

SEC. 1512. NONPROFIT AND NONPOLITICAL NATURE OF THE INSTITUTE.

(a) STOCK.—The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) NONPROFIT NATURE.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) NONPOLITICAL NATURE.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(20 U.S.C. 4419) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1512, 100 Stat. 1607.

SEC. 1513. TAX STATUS; TORT LIABILITY.

(a) TAX STATUS.—The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

(b) TORT LIABILITY.—

(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28, United States Code.

(2) For purposes of chapter 171 of title 28, United States Code, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

(3) For purposes of chapter 171 of title 28, United States Code, the President of the Institute shall be deemed the head of the Agency.

(20 U.S.C. 4420) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1513, 100 Stat. 1608; amended Sept. 27, 1988, P.L. 100–446, 102 Stat. 1818.

SEC. 1514. TRANSFER OF FUNCTIONS.

(a) INSTITUTE OF AMERICAN INDIAN ARTS.—There are hereby transferred to the Institute of American Indian and Alaska Native Culture and Art Development, and such Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary in 1962.

(b) CERTAIN MATTERS RELATING TO TRANSFERRED FUNCTIONS.—

(1) Subject to subsection (d), all personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the "Santa Fe Indian School" but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this title (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by this title shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) REFERENCES IN OTHER LAWS.—All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this title, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute of American Indian and Alaska Native Culture and Arts Development under subsection (b), shall be deemed to refer to the Institute of American Indian and Alaska Native Culture and Arts Development or an officer of the Institute of American Indian and Alaska Native Culture and Arts Development.

(d) FORGIVENESS OF AMOUNTS OWED; HOLD HARMLESS.—(1) Subject to paragraph (2)—

(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

(2) With respect to all programs of the Federal Government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which

occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damages or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.

(20 U.S.C. 4421) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1514, 100 Stat. 1607–1608; amended November 5, 1987, P.L. 100–153, sec. 8(1), 101 Stat. 888; amended Apr. 28, 1988, P.L. 100–297, sec. 5406, 102 Stat. 418; amended November 29, 1990, P.L. 101–644, sec. 503, 104 Stat. 4669; amended July 23, 1992, P.L. 102–325, sec. 1331(f), 106 Stat. 807.

SEC. 1515. REPORTS.

(a) ANNUAL REPORT.—The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) BUDGET PROPOSAL.—

(1) After September 30, 1988 and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(2) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(3) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

(20 U.S.C. 4422) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1515, 100 Stat. 1609; amended Apr. 28, 1988, P.L. 100–297, sec. 5406, 102 Stat. 418; amended July 23, 1992, P.L. 102–325, sec. 1331(g), 106 Stat. 807.

SEC. 1516. HEADQUARTERS.

Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Board may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

(20 U.S.C. 4423) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1516, 100 Stat. 1609; amended July 23, 1992, P.L. 102–325, sec. 1331(h), 106 Stat. 807.

SEC. 1517. COMPLIANCE WITH OTHER ACTS.

(a) IN GENERAL.—The Institute shall comply with the provisions of—

(1) Public Law 95–341 (42 U.S.C. 1996), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) CRIMINAL LAWS.—All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the Institute.

(c) OTHER FEDERAL ASSISTANCE.—

(1) Funds received by the institute pursuant to this Act shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.

(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.

(20 U.S.C. 4424) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1516, 100 Stat. 1609; amended November 29, 1990, P.L. 101–644, sec. 504, 104 Stat. 4669; amended July 23, 1992, P.L. 102–325, sec. 1331(i), 106 Stat. 808.

SEC. 1518. ENDOWMENT PROGRAM.

(a) PROGRAM ENHANCEMENT ENDOWMENT.—

(1)(A) From the total amount appropriated for this subsection pursuant to section 1531(a), funds may be deposited into a trust fund maintained by the institute at a federally insured banking or savings institution.

(B) The President of the Institute shall provide—

(i) for the deposit into the trust fund referred to in subparagraph (A)—

(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(II) any earnings on the funds deposited under this paragraph; or

(ii) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense

associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of November 29, 1990 and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year. All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of the date of enactment of the Higher Education Amendments of 1992.

(4) Amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

(b) CAPITAL IMPROVEMENT ENDOWMENT.—

(1) In addition to the trust fund established under subsection (a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to section 1531(a) for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the "capital endowment fund") to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been depos-

ited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private, non-Federal governmental, or tribal source.

(5) Subject to paragraph (3), amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

(c) GENERAL ADMINISTRATIVE PROVISIONS.—(1) Funds in the trust funds described in subsections (a) and (b) shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.

(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

(3)[1] Any amounts deposited in a trust fund authorized under subsection (a) may be used to secure loans procured for the purposes of constructing or improving Institute facilities.

(4) The President of the Institute shall provide for such other provisions governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) as will allow the Secretary of the Treasury to audit and monitor acitvities under this section.

(20 U.S.C. 4425) Reenacted Nov. 29, 1990, P.L. 101–644, sec. 505, 104 Stat. 4669–71; amended July 23, 1992, P.L. 102–325, sec. 1331(j), 106 Stat. 809.

SEC. 1519. PROVISION OF FACILITIES.

(a) PLAN.—The Board shall prepare a master plan on the short- and long-term facilities needs of the Institute. The master plan shall include evaluation of all facets of existing Institute programs, including support activities and programs and facilities. The master plan shall include impact projections for the Institute's move to a new campus site. This master plan shall evaluate development and construction requirements (based on a growth plan approved by the Board), including (but not limited to) items such as infrastructure and site analysis, development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

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[1] So in original. Indentation is wrong.

(b) DEADLINE FOR TRANSMITTAL.—The plan required by this subsection shall be transmitted to Congress no later than 18 months after the date of enactment of this provision. Such plan shall include a prioritization of needs, as determined by the Board.

(20 U.S.C. 4426) Enacted July 23, 1992, P.L. 102–325, sec. 1331(k), 106 Stat. 809.

PART B—NATIVE HAWAIIANS

SEC. 1521. PROGRAM FOR NATIVE HAWAIIAN CULTURE AND ARTS DEVELOPMENT.

(a) IN GENERAL.—The Secretary of the Interior is authorized to make grants for the purpose of supporting a program for Native Hawaiian culture and arts development to any private, nonprofit organization or institution which—

(1) primarily serves and represents Native Hawaiians, and

(2) has been recognized by the Governor of the State of Hawaii for the purpose of making such organization or institution eligible to receive such grants.

(b) PURPOSE OF GRANTS.—Grants made under subsection (a) shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

(1) to provide scholarly study of, and instruction in, Native Hawaiian art and culture,

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian art and culture, or

(3) to establish centers and programs with respect to Native Hawaiian art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 1510.

(c) MANAGEMENT OF GRANTS.—

(1) Any organization or institution which is the recipient of a grant made under subsection (a) shall establish a governing board to manage and control the program with respect to which such grant is made.

(2) The members of the governing board which is required to be established under paragraph (1) shall—

(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

(C) include the president of the University of Hawaii,

(D) include the president of the Bishop Museum, and

(E) shall serve for a fixed term of office.

(20 U.S.C. 4441) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1521, 100 Stat. 1610–1611.

SEC. 1522. ADMINISTRATIVE PROVISIONS.

(a) PAYMENTS.—The Secretary may award grants under this part in installments, in advance, or by way of reimbursement and may make necessary adjustments in payments of grants on account of overpayments or underpayments.

(b) RECOVERY OF OVERPAYMENTS.—

(1) If the Secretary or a court of competent jurisdiction finds that—

(A) any person—

(i) has—

(I) made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or

(II) knowingly failed, or caused another to fail, to disclose a material fact; and

(ii) as a result of such action, has received any funds under this part which such person would not have otherwise received, or

(B) any person misappropriates any funds paid by the Secretary under this part,

such person shall be liable to repay the amount of such funds to the United States. Any such finding by the Secretary may be made only after an opportunity for a fair hearing.

(2) Any amount repaid under this subsection shall be returned to the general fund of the Treasury of the United States.

(c) PENALTIES.—Whoever—

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for such person or for any other person any payment of funds provided under this part, or

(2) misappropriates any funds provided under this part,

shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(20 U.S.C. 4442) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1522, 100 Stat. 1611–1612.

PART C—AUTHORIZATION OF APPROPRIATIONS

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) PART A.—

(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of part A.

(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

(3) Except as provided for amounts subject to section 1518(d), amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

(A) the beginning of the fiscal year, or

(B) upon enactment of such appropriation.

(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expe-

ditious method available with the Institute being designated as its own certifying agency.

(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriations Act for any fiscal year to carry out this Act may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.

(b) PART B.—There are authorized to be appropriated for the purpose of carrying out the provisions of part B of this title—

(1) for fiscal year 1987, $1,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(20 U.S.C. 4451) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1531, 100 Stat. 1612; amended Apr. 28, 1988, P.L. 100–297, sec. 5406(c), 102 Stat. 418; amended Nov. 29, 1990, P.L. 101–644, sec. 506, 104 Stat. 4672.

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TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

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SEC. 410. EFFECTIVE DATES FOR AMENDMENTS TO PART A.

(a) IN GENERAL.—The changes made in part A of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part A;

(2) that the changes made in section 411, relating to Pell Grants, shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1993; and

(3) that the changes in section 413C(a)(2), relating to the Federal share for the supplemental educational opportunity grant program, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993.

(20 U.S.C. 1070a note) Enacted July 23, 1992, P.L. 102–325, sec. 410, 106 Stat. 510.

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PART B—FEDERAL FAMILY EDUCATION LOANS

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SEC. 432. EFFECTIVE DATES FOR AMENDMENTS TO PART B.

(a) IN GENERAL.—The changes made in part B of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part B;

(2) that the changes made in sections 425(a), 428(b)(1)(A), 428(b)(1)(B), 428A(b), 428B(b), relating to annual and aggregate loan limits, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, except that—

(A) the changes made in section 425(a)(1)(A)(i) and 428(b)(1)(A)(i) shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992; and

(B) the changes made in section 425(a)(1)(A)(iv) and 428(b)(1)(A)(iv) shall apply with respect to loans to cover the costs of instruction for periods of enrollment beginning on or after October 1, 1993;

(3) that the changes made in sections 427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(4) that the changes made in sections 428(a)(7) and 428(f)(1)(C), relating to payments for unconsummated loans, shall apply with respect to loans made on or after October 1, 1992;

(5) that the changes made in sections 427(a)(2)(H) and 428(b)(1)(E)(i), relating to offering graduated or income sensitive repayment options, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(6) that the changes made in section 428(b)(4), relating to teacher deferment, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(7) that section 428(c)(2)(H)(i) as added by such amendments shall be effective on and after October 1, 1992;

(8) that the changes in section 428(c)(3) with respect to forbearance after a default shall be effective on and after October 1, 1992;

(9) that the changes made in section 428B(a) with respect to use of credit histories shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

(10) that section 428B(c) as added by such amendments, relating to disbursement of Federal PLUS Loans, shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

(11) that the changes made in section 428C, relating to consolidation loans, shall apply with respect to loans under such section for which the application is received by an eligible lender on or after January 1, 1993;

(12) that section 428H as added by such amendments shall be effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992;

(13) that the changes made in section 438 shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

(14) that the changes in section 439(d)(1), relating to facilities loans, shall apply with respect to applications received on or after July 1, 1992; and

(15) that the changes in the designation or names of loans or programs under part B is effective with respect to applications or other documents (used in making such loans) that are printed after the date of enactment of this Act.

(b) NEW BORROWERS.—For purposes of the section, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act.

(20 U.S.C. 1078 note) Enacted July 23, 1992, P.L. 102–325, sec. 432, 106 Stat. 562.

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PART D—FEDERAL DIRECT LOANS

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SEC. 452. INCOME CONTINGENT LOAN DISTRIBUTION OF FUNDS.

(a) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 (as such Act was in effect on the date of enactment of this Act) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution's discretion, to such institution's part E account, part C fund, or subpart 3 of part A fund under the terms and conditions of the appropriate program.

(b) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 (as such Act was in effect on such date) to part E loans, provided that such institution—

(1) notify the borrower of such conversion;

(2) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and

(3) provide the borrower in writing with a description of all terms and conditions of the new loan.

(20 U.S.C. 1087a note) Enacted July 23, 1992, P.L. 102–325, sec. 452, 106 Stat. 575.

PART E—FEDERAL PERKINS LOANS

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SEC. 468. EFFECTIVE DATES FOR AMENDMENTS TO PART E.

The changes made in part E of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except that—

(1) the changes in section 463(a)(2)(B), relating to the matching of Federal capital contributions, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993;

(2) the changes made in section 464(c)(1)(C), relating to minimum monthly payments shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992, to an individual who, on the date the loan is made, has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act;

(3) the changes made in section 464(c)(2)(A), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993; and

(4) the changes made in section 467, relating to the creation of a Perkins Loan Revolving Fund, shall take effect on September 15, 1997.

(20 U.S.C. 1087dd note) Enacted July 23, 1992, P.L. 102–325, sec. 468, 106 Stat. 585.

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PART F—NEED ANALYSIS

SEC. 471. REVISION OF PART F.

(a) * * *

(b) EFFECTIVE DATE FOR AMENDMENT TO PART F.—The changes made in part F of title IV of the Act by the amendment made by this section shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.

(20 U.S.C. 1087kk note) Enacted July 23, 1992, P.L. 102–325, sec. 471, 106 Stat. 609.

PART G—GENERAL PROVISIONS

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SEC. 498. EFFECTIVE DATES FOR AMENDMENTS TO PART G.

The changes made in part G of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except that—

(1) as otherwise provided in such part G;

(2) the changes in section 481(a), relating to the definition of institution of higher education, other than paragraph (4) of such section, shall be effective on and after October 1, 1992;

(3) section 481(e) as added by such amendments, relating to the definition of eligible program, shall be effective on and after July 1, 1993;

(4) section 484(m)(1), relating to proportion of courses permitted to be correspondence courses, as added by such amendments shall be effective on and after October 1, 1992;

(5) the changes in section 485, relating to disclosures, shall be effective with respect to periods of enrollment beginning on or after July 1, 1993;

(6) the changes in section 488, relating to transfers of allotments, shall apply with respect to funds provided for award years beginning on or after July 1, 1993; and

(7) the changes in section 489, relating to payments for administrative expenses, shall apply with respect to funds provided for award years beginning on or after July 1, 1993.

(20 U.S.C. 1088 note) Enacted July 23, 1992, P.L. 102–325, sec. 498, 106 Stat. 634.

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TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

SEC. 501. REVISION OF TITLE V.

(a) * * *

(b) Expiration Date.—Effective July 1, 1995, the Alternative Routes to Teacher and Principal Certification and Licensure Act of 1992 (as contained in subpart 2 of part D of title V of this Act) is repealed.

(20 U.S.C. 1108) Enacted July 23, 1992, P.L. 102–325, sec. 501, 106 Stat. 719.

Higher Education Amendments of 1992

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TITLE XIV—STUDIES AND COMMISSIONS

PART A—STUDIES BY THE DEPARTMENT OF EDUCATION

SEC. 1401. STUDY OF ROLE OF GUARANTY AGENCIES.

(a) STUDY.—The Secretary of Education shall review the role of guaranty agencies within the Federal Family Education Loan Program by examining the administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments.

(b) REPORT.—The Secretary of Education shall report to the Congress within 1 year of the date of enactment of this Act on the study described in subsection (a). Such report shall consider and make recommendations concerning—

(1) increasing the role of guaranty agencies in oversight and licensing of proprietary trade schools under the Federal Family Education Loan Program;

(2) strengthening Federal disincentives for high default rate portfolios;

(3) consolidating guaranty agencies regionally or otherwise;

(4) eliminating the role of guaranty agencies within the Federal Family Education Loan Program; and

(5) the compensation of chief executive officers and managerial staffs of guaranty agencies.

(20 U.S.C. 1071 note) Enacted July 23, 1992, P.L. 102–325, sec. 1401, 106 Stat. 816.

SEC. 1402. STUDY OF STATUTORY PROTECTIONS.

The Secretary of Education shall report to the Congress within 180 days of the date of enactment of the Higher Education Amendments of 1992 on the advisability of statutorily protecting officials of accrediting agencies involved in the performance of legitimate Federal Family Education Loan Program activities.

(20 U.S.C. 1071 note) Enacted July 23, 1992, P.L. 102–325, sec. 1402, 106 Stat. 817.

SEC. 1403. STUDY OF FRAUD-BASED DEFENSES.

(a) STUDY.—The Secretary shall conduct a study of the impact of fraud-based defenses on the Federal Family Education Loan Program. Such study shall include—

(1) an analysis of statutory, regulatory, and case law regarding the use of fraud-based defenses against repayment of such loans;

(2) an estimate of the total number of borrowers filing for relief from repayment of such loans using a fraud-based defense and amount of such loan principal involved;

(3) an estimate of such loan principal relieved annually through fraud-based defenses;

(4) an evaluation of the importance of a fraud-based defense to the protection of borrowers of such loans; and

(5) an evaluation of the effects of the availability of a fraud-based defense on the accessibility of Stafford loans by geographical area and by type of postsecondary institution.

(b) DATE.—The study described in subsection (a) shall be completed not later than 18 months after the date of enactment of this Act.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit a report to the Congress on the study described in subsection (a) that makes specific recommendations for legislative options that may be needed to address the rights of borrowers with respect to the availability of fraud-based defenses under the Federal Family Education Loan Program without jeopardizing the participation of lenders or the solvency of guaranty agencies required to maintain the integrity of such program.

(2) DATE.—The report described in paragraph (1) shall be completed not later than 19 months after the date of enactment of this Act.

(20 U.S.C. 1080 note) Enacted July 23, 1992, P.L. 102–325, sec. 1403, 106 Stat. 817.

SEC. 1404. DATA ON NONTRADITIONAL STUDENTS.

(a) STUDY REQUIRED.—The Secretary of Education shall conduct a 2-year study regarding the types of programs available for, and determine the success or failure of such programs in, increasing the accessibility for nontraditional students to postsecondary education. The study shall be conducted through the Office of Educational Research and Improvement.

(b) PURPOSE.—The purpose of the study shall be—

(1) to appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of these programs as they pertain to the nontraditional student;

(2) to investigate the availability of grants and loans and other financial assistance to nontraditional students (including independent students and part-time students);

(3) to assess the availability of supportive services for the nontraditional students including (but not limited to) counseling, child care services, campus health center services, and library services;

(4) to make recommendations on how the Department of Education can maintain an effective data base regarding nontraditional students that will include—

(A) a yearly count of the number of students who are nontraditional and breakdown of the institutions they are attending;

(B) the number of nontraditional students who work and go to school;

(C) the extent of participation in Federal student aid programs;

(D) the amount of unmet costs of postsecondary education for nontraditional students; and

(E) trends over the last decade regarding participation of nontraditional students in title IV programs.

(c) REPORT.—The Secretary of Education shall submit an interim report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate within 1 year after the date of enactment of this section and submit a final report 2 years after such date of enactment.

(20 U.S.C. 1221e note) Enacted July 23, 1992, P.L. 102–325, sec. 1404, 106 Stat. 817.

SEC. 1405. STUDY OF FEDERAL BENEFIT COORDINATION.

(a) IN GENERAL.—The Secretary of Education shall conduct a study to evaluate the coordination of Federal student financial assistance programs under title IV of the Higher Education Act of 1965 with other programs funded in whole or in part with Federal funds, giving particular attention to—

(1) the effect of receipt of program assistance under title IV of the Higher Education Act of 1965 on students eligible for other programs funded in whole or in part with Federal funds, including reduction or denial of such other program funds; and

(2) the attendance cost elements funded in whole or in part by programs under title IV of the Higher Education Act of 1965 for students eligible for other Federal programs and the inclusion of room or board costs in such attendance costs.

(b) REPORT.—The Secretary of Education shall prepare and submit to the appropriate committees of the Congress a report on the study conducted pursuant to subsection (a) not later than 3 years after the date of enactment of this Act, together with such recommendations as the Secretary of Education deems appropriate.

(20 U.S.C. 1070 note) Enacted July 23, 1992, P.L. 102–325, sec. 1405, 106 Stat. 818.

SEC. 1406. NATIONAL SURVEY OF FACTORS ASSOCIATED WITH PARTICIPATION.

(a) AUTHORITY OF THE SECRETARY OF EDUCATION.—In order to assure improved and accurate data on the participation of at-risk students in postsecondary education, the Secretary of Education, acting through the National Center for Educational Statistics, shall conduct a special purpose survey on a biennial basis of factors associated with participation of low-income, disadvantaged, non-English language background, disabled, and minority students, including (but not limited to) African American, Native Americans, Native Hawaiians, major Hispanic subgroups, and Asian students from disadvantaged backgrounds in various types of postsecondary education. The survey data shall permit comparisons with other groups that have characteristically participated at higher rates than at-risk students.

(b) DEVELOPMENT OF THE SURVEY.—The Secretary of Education shall consult with the Congress and the elementary and secondary and higher education community in developing such an annual survey. The survey shall include, but not be limited to—

(1) academic preparation of groups at key points in the elementary and secondary education process;

(2) rates of academic progress and graduation from high school;

(3) participation in postsecondary education by type and control of institution and by program of study;

(4) persistence rates in postsecondary programs, or, in the case of short-term programs, completion rates; and

(5) average student financial assistance awarded to groups, including Federal, State, and other assistance.

(c) REPORT TO CONGRESS.—The Secretary of Education shall report relevant data and conclusions from the survey to Congress on an annual basis, including comparisons of important factors for at-risk and other relevant populations.

(d) DEVELOPMENT OF PLAN.—In the event of significant findings related to underparticipation rates of at-risk and other students, the Secretary of Education shall submit a plan containing policies and program modifications for ensuring the participation of at-risk students. The plan shall indicate the modifications the Secretary will make to increase participation, including, but not limited to, increasing information and training, and recommending other relevant changes to the programs under this title.

(e) PANEL SURVEY ON INCOME DYNAMICS.—

(1) IN GENERAL.—The Secretary of Education, acting through the National Center for Education Statistics, shall make an interagency agreement with the National Science Foundation to provide for additional questions and an appropriate sample size as part of an existing panel study of income dynamics to provide information on the educational processes and other developmental behavior of Hispanic, black, and non-Hispanic white children and their short-term and long-term consequences.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $900,000 for fiscal year 1993 and such sums for each of the 4 succeeding fiscal years to carry out this subsection.

(20 U.S.C. 1221e–1 note) Enacted July 23, 1992, P.L. 102–325, sec. 1406, 106 Stat. 818.

SEC. 1407. EVALUATION OF TUITION GUARANTY PROGRAMS.

(a) PURPOSE.—The purposes of this section are—

(1) to require the Secretary of Education to determine the effectiveness of programs for disadvantaged elementary and secondary school students that offer guarantees for postsecondary education; and

(2) to identify ways to encourage the business community to participate in such programs.

(b) CONDUCT OF STUDY.—

(1) IN GENERAL.—The Secretary of Education shall evaluate the effectiveness of programs for disadvantaged children that, in exchange for the child's commitment to achieving a satisfactory elementary and secondary education, promise the child the financial resources needed to pursue a postsecondary education.

(2) CONTENT.—The Secretary of Education shall study a sample of the types of programs available, and (A) determine the success or failure of such programs in increasing the access and entry of disadvantaged students into postsecondary education, (B) identify the most successful programs and the causes for success, and (C) determine the responsibilities of sponsors of the programs.

(3) PROGRAMS STUDIED.—The programs studied shall include a guarantee of postsecondary education for students currently in elementary or secondary grade levels. The programs may include supportive services, mentoring, study skills, and counseling to students participating in the program.

(c) DISSEMINATION.—The Secretary of Education shall disseminate the findings through appropriate agencies and organizations including associations of businesses.

(d) SUBMISSION OF REPORT.—The Secretary of Education shall submit an interim report regarding the study by June 30, 1996, and a final report regarding the study by January 1, 1997, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(20 U.S.C. 1070a-21 note) Enacted July 23, 1992, P.L. 102–325, sec. 1407, 106 Stat. 819.

SEC. 1408. INFORMATION ON GRADUATE EDUCATION.

(a) ASSESSMENT REQUIRED.—The Secretary of Education shall conduct a study which will provide an assessment of the information currently collected on graduate education and will identify what additional information should be generated to guide the Department of Education in defining and executing its role in the support of graduate education.

(b) SUBJECT OF ASSESSMENT.—The assessment required by subsection (a) shall include the assessment of the total amount of Federal, State, private, foundation, and institutional fellowships, assistantships, loans, or any other forms of financial assistance to all graduate students, including both American and foreign students; and how these amounts are distributed by race, by sex, to nontraditional students, and to students with disabilities. In addition, the assessment shall determine the number of graduate students, cross-referenced by race, sex, and national origin, part-time, full-time, independent versus dependent status, and individuals with disabilities who enrolled and completed all requirements for the degrees master of arts, master of science, master in business administration, doctor of philosophy, doctor of education, juris doctor, medical doctor, doctor in veterinary medicine, and doctor of dental science.

(c) CONSULTATION.—In conducting such study, the Secretary of Education shall consult with other agencies and organizations involved in graduate education policy, including the Congressional Office of Technology Assessment, the President's Office of Science and Technology Policy, the National Science Foundation and the other Federal agencies supporting academic research and graduate education, the National Academy of Sciences and other public and private organizations which participate in the formulation and implementation of national graduate education policies and programs.

(d) DATE FOR COMPLETION.—The study shall be completed within 2 years of the date of enactment of this Act.

(20 U.S.C. 1134 note) Enacted July 23, 1992, P.L. 102–325, sec. 1408, 106 Stat. 820.

SEC. 1409. STUDY OF ENVIRONMENTAL HAZARDS IN INSTITUTIONS OF HIGHER EDUCATION.

(a) STUDY AUTHORIZED.—The Secretary of Education, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to conduct a study of the extent to which asbestos, lead in drinking water, or radon gas pose a threat to the health and safety of students and employees of institutions of higher education.

(b) SURVEY REQUIRED.—Such study shall include a survey of a representative sample of institutions of higher education in order to assess how widespread such hazards are. A sufficient number of institutions shall be sampled and tested in order to provide reasonable estimates on—

(1) the number of institutions which contain friable asbestos (as defined in the Asbestos Hazard Emergency Response Act) and how many students and employees may be exposed to unsafe levels of asbestos fibers,

(2) the number of institutions that have rooms which contain more than 4 picocuries/liter of radon, and

(3) the number of institutions which contain water fountains or faucets or water coolers which discharge water with more than 10 parts per billion of lead.

(c) CONSULTATION.—In designing and carrying out such study, the Secretary shall consult with associations representing institutions of higher education, faculty, and other employees.

(d) REPORT ON STUDY.—The Secretary of Education shall submit a report with the results of the assessment, including the information required by subsection (b), along with recommendations by the Secretary regarding what actions, if any, Congress and the Administration should take to ensure that environmental health hazards, if any, are eliminated. The report shall be presented to Congress not later than July 1, 1995.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 in fiscal year 1994 for the purposes of carrying out this section.

(20 U.S.C. 1132a note) Enacted July 23, 1992, P.L. 102–325, sec. 1409, 106 Stat. 821.

SEC. 1410. STUDY OF CIVILIAN AVIATION TRAINING PROGRAMS.

(a) FINDINGS.—The Congress finds that—

(1) the role of the military as a source of supply of trained pilots and mechanics and other personnel for commercial aviation is severely reduced;

(2) approximately 50 percent of the 52,000 commercial pilots currently flying will retire by the year 2000 and an additional 8,000 to 10,000 pilots will be needed by then;

(3) there is significant underrepresentation of minorities and women currently working in the aviation industry and African Americans constitute less than 1 percent of pilots with the Nation's scheduled air carriers;

(4) there is a substantial projected increase of minorities and women as a proportion of the workforce by the year 2000; and

(5) there is need for a comprehensive study of future human resources needs for the air transportation industry, including a thorough investigation of recruitment, aviation training outside the military context, financial and other incentives and disincentives which affect the flow of people, and especially minorities and women, into the industry.

(b) STUDY REQUIRED.—The Secretary of Education shall enter into appropriate arrangements with the National Academy of Sciences Commission on Behavioral and Social Sciences and Education to study civilian aviation training programs needed to satisfy the workforce requirements of the commercial aviation industry in the year 2000 and beyond. The specific concerns to be addressed by the study shall include—

(1) the avenues for civilians to enter the aviation industry,

(2) the characteristics of current training and the match with skill requirements in the workplace, and

(3) the impediments and incentives for minorities and women to enter the aviation industry (such as a lack of role models, cost of schooling and flight time, the underutilization of historically black colleges and universities in the educational training process, and institutional barriers).

(c) INTERIM REPORT.—The Secretary of Education shall request that the National Academy of Sciences Commission on Behavioral and Social Sciences and Education submit an interim report to the Secretary and the Congress within 1 year after the date of enactment of this Act, and the study shall be completed within 2 years of the date of enactment of this Act.

(20 U.S.C. 1221–1 note) Enacted July 23, 1992, P.L. 102–325, sec. 1410, 106 Stat. 821.

SEC. 1411. REPORT ON THE USE OF PELL GRANTS BY PRISONERS.

(a) REPORT REQUIRED.—The Secretary of Education shall submit to the Congress a report on the use of Pell Grants by prisoners. Such report shall contain a statement of—

(1) the number of prisoners receiving Pell Grants;

(2) the average amount of the Pell Grants awarded to prisoners;

(3) the average length of Pell Grant subsidized study for prisoners;

(4) the graduation or success rate of prisoners receiving Pell Grants;

(5) an analysis of whether prisoners' lack of income has made them more successful in obtaining Pell Grants over other low-income citizens who are not incarcerated;

(6) an analysis of whether prisoners lack of income provides them with an advantage in receiving Pell Grants; and

(7) the Secretary's recommendations for making the program more equitable with regard to awards to prisoners in relation to other applicants.

(b) DEADLINE FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than 6 months after the date of enactment of this Act.

Enacted July 23, 1992, P.L. 102–325, sec. 1411, 106 Stat. 821.

SEC. 1412. NATIONAL JOB BANK FOR TEACHER RECRUITMENT.

(a) FEASIBILITY STUDY.—The Secretary of Education is authorized to conduct a study on the feasibility of—

(1) establishing a clearinghouse to operate a national teacher job bank; or

(2) establishing regional clearinghouses to operate regional teacher job banks.

(b) NATIONAL TEACHER JOB BANK DEMONSTRATION.—

(1) PROGRAM AUTHORIZED.—The Secretary of Education is authorized to contract with one or more State entities, nonprofit organizations, or institutions of higher education to establish a national or regional teacher job bank clearinghouse which shall—

(A) assist local educational agencies and private schools in locating qualified applicants for teaching-related positions; and

(B) help individuals in locating teaching-related jobs or the training necessary to enter the teaching profession or the field of early childhood or preschool education.

(2) APPLICATION REQUIRED.—Each entity desiring to enter into a contract with the Secretary of Education for the establishment of a teacher job bank clearinghouse shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(A) a demonstration of the applicant's capacity to efficiently and effectively handle a large volume of inquiries from employers and potential employees;

(B) a demonstration of support from local educational agencies and private schools and institutions of higher education that are likely to use the services provided by the teacher job bank clearinghouse; and

(C) a demonstration of ability to provide prospective teachers with information, either directly or by contract with another entity, regarding the certification and licensure requirements of each State which is served by a clearinghouse and information regarding procedures for assisting out-of-State teachers to meet State certification requirements.

(3) PRIORITY.—The Secretary shall give priority to applications submitted pursuant to paragraph (2) which—

(A) demonstrate the ability to serve a region of the United States and involve the cooperation of several State educational agencies and institutions of higher education; or

(B) demonstrate an ability to address shortages of teachers, such as teachers from minority groups, special education teachers, bilingual teachers, or individuals planning to teach in subject areas, geographical areas, or types of schools with shortages.

(c) USE OF FUNDS.—Each entity, organization, or institution receiving funds under this section may use such funds to—

(1) develop, in consultation with local education agencies and other appropriate entities, standardized initial application forms for teaching jobs and related positions, and standardized forms and procedures for announcing available teaching positions;

(2) coordinate and assist State and local teacher recruitment efforts;

(3) publish and disseminate information about opportunities for teacher employment and teacher training;

(4) maintain a system for matching available teachers with job openings for which they are qualified and for tracking the supply of teachers and the demand for teachers among the States;

(5) encourage the development of programs to recruit and train minorities and individuals with disabilities to become teachers;

(6) assist employers in checking the background of applicants;

(7) publicize the availability of scholarships, loans, and other programs that assist individuals wishing to pursue a teaching career;

(8) assist employers in the development of effective teacher recruitment programs;

(9) assist in developing reciprocal agreements on teacher certification among States; and

(10) conduct such other activities and services necessary to carrying out the purposes of this section in accordance with the provisions of this section.

(d) DEFINITION.—For the purposes of this section, the term "teacher" includes elementary and secondary school classroom teachers, and preschool and early childhood education specialists.

(e) AUTHORIZATION.—There are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

(20 U.S.C. 1101 note) Enacted July 23, 1992, P.L. 102–325, sec. 1412, 106 Stat. 822.

PART B—NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION

SEC. 1421. SHORT TITLE.

This part may be cited as the "National Independent Colleges and Universities Discovery Act".

(20 U.S.C. 1221–1 note) Enacted July 23, 1992, P.L. 102–325, sec. 1421, 106 Stat. 824.

SEC. 1422. FINDINGS.

The Congress finds that—

(1) the quality and scope of higher education in our Nation is without argument the finest in the world, and a distinguishing feature of our Nation's system of higher education is its strong and diverse nonprofit independent sector;

(2) independent colleges and universities are as diverse as the Nation itself and include traditional liberal arts institutions, major research universities, church- and faith-related colleges, colleges and universities primarily attended by minorities, women's colleges, junior colleges, and schools of law, medicine, engineering, business and other professions;

(3) the diversity of independent colleges and universities offers students a choice in the type of educational experience that will best serve such students' interests, needs and aspirations;

(4) independent colleges and universities enroll 21 percent of all students in the United States, award 33 percent of all bachelor's degrees in the United States, 42 percent of all such master's degrees, 36 percent of all such doctoral degrees, and 59 percent of all such professional degrees;

(5) a majority of all undergraduate students attending independent colleges and universities receive some form of financial assistance, and such independent colleges and universities provide such financial assistance from their own resources;

(6) independent colleges and universities are deeply involved in hundreds of partnerships with elementary and secondary schools, and such partnerships are largely funded by such colleges and universities;

(7) independent colleges and universities have been an extraordinary example of private-public partnerships, with such colleges and universities operating in the public interest to provide a public good;

(8) less than 20 percent of the revenue of independent colleges and universities comes from governmental funds, most of which is in the form of Federal and State financial aid;

(9) decreases in Federal and State support for student financial aid programs has placed at risk the option of choosing an independent college or university for an increasing number of students;

(10) whereas at the turn of the twentieth century 80 percent of the students enrolled in higher education in the United States were enrolled in independent colleges and universities, such percentage has now declined to 21 percent, and further erosions place at risk the option of choosing an independent college or university for students and parents; and

(11) the entire sector of independent colleges and universities and the important contributions such sector makes to our Nation is at risk and deserves national policy attention.

(20 U.S.C. 1221–1 note) Enacted July 23, 1992, P.L. 102–325, sec. 1422, 106 Stat. 824.

SEC. 1423. PURPOSE.

It is the purpose of this part to establish a National Commission on Independent Higher Education.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1423, 106 Stat. 825.

SEC. 1424. NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION.

(a) ESTABLISHMENT.—There is established as an independent agency in the executive branch a commission to be known as the National Commission on Independent Higher Education (hereafter in this part referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 9 members, 3 of whom shall be appointed by the President, 2 of whom shall be appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed by the Minority Leader of the House of Representatives, 2 of whom shall be appointed by the Majority Leader of the Senate, and 1 of whom shall be appointed by the Minority Leader of the Senate.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in independent higher education, including expertise in national tax policy, individuals with expertise in State higher education finance, individuals with expertise in Federal financial aid programs, individuals with expertise in issues of student and faculty diversity, and individuals with expertise in graduate education and research.

(3) DATE.—The members of the Commission shall be appointed not later than 6 months after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) MEETINGS.—The Commission shall meet at the call of the Chairman.

(e) QUORUM.—Six of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1424, 106 Stat. 825.

SEC. 1425. DUTIES OF THE COMMISSION.

The Commission shall—

(1) develop a factual base for understanding the status of independent colleges and universities, their contributions to public priorities, and the effects of national higher education policies on the independent nonprofit sector;

(2) review the issuance of Federal regulations regarding independent colleges and universities, and suggest means by which independent colleges and universities can be held ac-

countable for use of public resources without inappropriate intrusion into institutional autonomy; and

(3) address the relation between Federal and State policies on independent colleges and universities, particularly with respect to student access and choice, finance, institutional subsidies, and institutional accountability.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1425, 106 Stat. 826.

SEC. 1426. REPORT AND RECOMMENDATIONS.

(a) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress on the Commission's activities and findings within 18 months of the date of enactment of this Act.

(b) FINAL REPORT.—

(1) IN GENERAL.—The Commission shall submit a final report to the President and the Congress on the Commission's activities and findings within 3 years of the date of enactment of this Act.

(2) RECOMMENDATION.—The report described in paragraph (1) shall contain a recommendation regarding the establishment of a national policy on independent colleges and universities appropriate to meeting the Nation's higher educational goals in the twenty-first century.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1426, 106 Stat. 826.

SEC. 1427. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this part.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this part. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) GIFTS.—The Commission may accept in the name of the United States grants, gifts, and bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, and bequests, after acceptance by the Commission, shall be paid by the donor or representative of the donor to the Treasurer of the United States, whose receipts shall be their acquittance. The Treasurer of the United States shall enter such grants, gifts, and bequest in a special account to the credit of the Commission for the purposes specified.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this part for fiscal year 1993 and each succeeding fiscal year. Amounts appropriated under this subsection are authorized to remain available until expended, or until the Commission is terminated, whichever occurs first.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1427, 106 Stat. 826.

SEC. 1428. COMMISSION PERSONNEL MATTERS.

(a) TRAVEL EXPENSES.—From amounts appropriated under section 1427(d), the members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(b) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and not more than 2 staff members without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and such staff may not exceed the rate payable for level 15 of the General Schedule classified under section 5107 of such title.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1428, 106 Stat. 827.

SEC. 1429. TERMINATION OF THE COMMISSION.

The Commission shall terminate 3 years after the date of enactment of this Act.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1429, 106 Stat. 827.

PART C—NATIONAL COMMISSION ON THE COST OF HIGHER EDUCATION

SEC. 1441. ESTABLISHMENT OF COMMISSION.

There is established a Commission to be known as the "National Commission on the Cost of Higher Education" (hereafter in this part referred to as the "Commission").

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1441, 106 Stat. 827.

SEC. 1442. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of 12 members as follows:

(1) Four citizens of the United States appointed by the President.

(2) Two Senators appointed by the Majority Leader of the Senate, of which—

(A) one shall be a member of the Committee on Labor and Human Resources of the Senate; and

(B) one shall be a member of the Committee on Appropriations of the Senate.

(3) Two Senators appointed by the Minority Leader of the Senate, of which—

(A) one shall be a member of the Committee on Labor and Human Resources of the Senate; and

(B) one shall be a member of the Committee on Appropriations of the Senate.

(4) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives, of which—

(A) one shall be a member of the Committee on Education and Labor of the House of Representatives; and

(B) one shall be a member of the Committee on Appropriations of the House of Representatives.

(5) Two Members of the House of Representatives appointed by the Minority Leader of the House of Representatives, of which—

(A) one shall be a member of the Committee on Education and Labor of the House of Representatives; and

(B) one shall be a member of the Committee on Appropriations of the House of Representatives.

(b) ADDITIONAL QUALIFICATIONS.—

(1) PRESIDENTIAL APPOINTEES.—An individual appointed under subsection (a)(1) may not be an officer or an employee of the Executive Branch.

(2) CITIZENS.—Individuals who are not Members of the Congress and are appointed under subsection (a)(1) shall be individuals who—

(A) have extensive knowledge of higher education and its financing and who are leaders of the education community, distinguished academics, State or local government officials, students, parents of college students, members of the business community, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a Chairman and a Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson will assume the duties of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) APPOINTMENTS.—All appointments under subsection (a) shall be made within 3 months after the date of enactment of this Act.

(f) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(g) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

(20 U.S.C. 1221–1 note) Enacted July 23, 1992, P.L. 102–325, sec. 1442, 106 Stat. 827.

SEC. 1443. FUNCTIONS OF COMMISSION.

(a) SPECIFIC FINDINGS AND RECOMMENDATIONS.—The Commission shall study and make findings and specific recommendations regarding the following:

(1) The increase in tuition costs compared with other commodities and services as well as methods of reducing increased tuition costs.

(2) Trends in college and university administrative costs as well as other costs and means of reducing such increased costs.

(3) The development of a standardized annual report that colleges and universities shall distribute which details the administrative costs, instructional costs and capital costs of such colleges and universities.

(4) The extent to which Federal, State and local regulations contribute to increased tuition costs and the increase in the cost of higher education.

(5) The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.

(6) The extent to which the lack of student financial assistance programs has contributed to increased tuition costs.

(7) Other related topics determined to be appropriate by the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall submit to the President and to the Congress not later than September 1, 1994, a report which shall contain a detailed statement of the findings and conclusions of the Commission, including the Commission's recommendations for administrative and legislative action that the Commission considers advisable.

(2) MAJORITY VOTE REQUIRED FOR RECOMMENDATIONS.—Any recommendation described in paragraph (1) shall be made by the Commission to the President and to the Congress only if such recommendation is adopted by a majority vote of the members of the Commission who are present and voting.

(20 U.S.C. 1221–1 note) Enacted July 23, 1992, P.L. 102–325, sec. 1443, 106 Stat. 829.

SEC. 1444. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this part, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish the

Commission's procedures and to govern the manner of the Commission's operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this part. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) FACILITIES AND SERVICES, PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the Commission's duties under this part, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 1445(b).

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission, to such extent and in such amounts as are provided in appropriation Acts, may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the Commission's duties under this part, subject to the limitation on total expenses set forth in section 1445(b).

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 1445(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for level IV of the Executive Schedule under section 5332 of such title.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.) and shall be independent from the Executive Branch.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1444, 106 Stat. 829.

SEC. 1445. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $2,000,000.

(c) GAO AUDIT.—Prior to the termination of the Commission pursuant to section 1446, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include the Comptroller General's determination in an opinion to be included in the report of the Commission.

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1445, 106 Stat. 830.

SEC. 1446. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 90 days after the date on which the Commission submits its final report in accordance with section 1443(b).

(20 U.S.C. 1221-1 note) Enacted July 23, 1992, P.L. 102-325, sec. 1446, 106 Stat. 831.

TITLE XV—RELATED PROGRAMS AND AMENDMENTS TO OTHER LAWS

PART A—NATIONAL CENTER FOR THE WORKPLACE

SEC. 1511. PURPOSE; DESIGNATION.

It is the purpose of this part to address the problems created by the simultaneous convergence of broad economic, social, cultural, political, and technological changes in the workplace through a national center administered by the Department of Labor that will join together workplace experts from America's best institutions of higher education with experts from the public and private sectors to conduct research, share information, and propose remedies.

(29 U.S.C. 2401) Enacted July 23, 1992, P.L. 102-325, sec. 1511, 106 Stat. 831.

SEC. 1512. ESTABLISHMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is authorized to be established the National Center for the Workplace (hereafter in this part referred to as the "Center") through competitive grant or contract between the Secretary of Labor and an eligible recipient.

(2) MATCHING FUNDS.—In order to receive the grant described in paragraph (1) an eligible entity shall provide matching funds from non-Federal sources equal to 25 percent of the funds received pursuant to such grant.

(b) ELIGIBLE RECIPIENT.—An eligible recipient shall be a consortium of institutions of higher education in the United States.

The consortium shall represent a diversity of views on and an expertise in the field of employment policy, and shall be represented and coordinated by a host institution of higher education that meets all of the following criteria:

(1) Broad collective knowledge of and demonstrable experience in the wide range of employment and workplace issues.

(2) A faculty that, collectively, demonstrates a nonpartisan research and policy perspective joining the several relevant workplace disciplines (labor economics, industrial relations, collective bargaining, human resource management, sociology, psychology, and law) in a multidisciplinary approach to workplace issues.

(3) Established credibility and working relationships with employers, unions, and government agencies on a national scale, and established means of providing education and technical assistance to each of the above groups that include publications, state-of-the-art electronic and video technology, and distinguished extension/outreach programs operating on a national and international level.

(c) REPORT.—The Center shall annually report to the Congress, the Secretary of Education, and the Secretary of Labor on the activities of the Center.

(29 U.S.C. 2402) Enacted July 23, 1992, P.L. 102–325, sec. 1512, 106 Stat. 831.

SEC. 1513. USE OF FUNDS.

(a) CENTER ACTIVITIES.—Payments made under this part may be used to establish and operate the Center, to bring together major independent researchers from the Center's member-institutions focused on the most significant workplace problems with the aim of analysis and synthesis of policy implications and dissemination of findings, and to support the following activities:

(1) The coordination and funding of research activities of the Center's member-institutions for collaborative collection and evaluation of data on changes and trends in the workplace and in the labor force, on established and emerging public policy issues, on the economic and occupational structures, and on work organizations and employment conditions.

(2) The analysis of the public policy implications of social and demographic changes in the United States as they relate to the workplace.

(3) The conduct of seminars for Federal and State policymakers on policy implications of the Center's findings. Such seminars shall be held not more frequently than once each year. In addition, the Center shall utilize electronic technology, such as computer networks and video conferencing, to convey the cumulative value of the Center's activities from year to year and to foster continuous exchange of ideas and information.

(4) The conduct of a National Conference on employment policy not more frequently than once each year for the leaders of business and organized labor in the United States designed to convey the cumulative value of the Center's activities and to foster an exchange of ideas and information.

(5) The nonpartisan evaluation of the economic and social implications of national and international workplace and employment issues.

(6) The provision of ready access to the Center's collective expertise for policy officials in the Federal and State governments and representatives of private and public sector organizations through meetings, publications, special reports, video conferences, electronic mail and computer networks, and other means to share up-to-date information on workplace and employment issues, practices, and innovations, the most promising options, and guidance in management of the change process.

(7) The development of programs, curricula, and instructional materials for colleges, universities, and other educational institutions designed to impart the knowledge and skills required to promote innovations in the design of work and employment conditions that enhance organizational performance and meet worker needs.

(8) The development and administration of a national repository of information on key workplace issues that can be readily accessed by the public and private sector.

(b) FELLOWSHIPS.—Grant funds awarded under this title may also be used to provide graduate assistantships and fellowships at the Center to encourage graduate study of the field of employment policy and to encourage graduate research in areas that are seen as critical to national competitiveness.

(29 U.S.C. 2401) Enacted July 23, 1992, P.L. 102–325, sec. 1511, 106 Stat. 831.

(29 U.S.C. 2403) Enacted July 23, 1992, P.L. 102–325, sec. 1513, 106 Stat. 832.

SEC. 1514. GIFTS AND DONATIONS.

The Center is authorized to receive money and other property donated, bequeathed, or devised to the Center with or without a condition of restriction, for the purpose of furthering the activities of the Center. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report submitted pursuant to section 1512(c).

(29 U.S.C. 2404) Enacted July 23, 1992, P.L. 102–325, sec. 1511, 106 Stat. 833.

SEC. 1515. AUTHORIZATION.

(a) IN GENERAL.—There are authorized to be appropriated $2,500,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(b) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

(29 U.S.C. 2405) Enacted July 23, 1992, P.L. 102–325, sec. 1515, 106 Stat. 833.

PART B—NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS

SEC. 1521. NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS.

(a) PURPOSE.—The purpose of this section is to coordinate the production and distribution of educational materials in an accessible form, especially audio and digital text production, to college and university based print-disabled populations.

(b) PROGRAM AUTHORITY.—

(1) IN GENERAL.—The Secretary of Education is authorized to award a grant or contract to pay the Federal share of the cost of establishing a National Clearinghouse for Postsecondary Education Materials (hereafter in this part referred to as the "Clearinghouse") to coordinate the production and distribution of educational materials, in an accessible form, including audio and digital, for students with disabilities.

(2) AWARD BASIS.—The grant or contract awarded pursuant to paragraph (1) shall be made on a competitive basis.

(3) DURATION.—The grant or contract awarded under this section shall be awarded for a period of 3 years.

(c) USE OF FUNDS.—The grant or contract awarded under this section shall be used to—

(1) catalog in computer-readable form postsecondary education materials;

(2) identify college campus-based services producing taped texts whose technical and reader quality make them eligible for inclusion in the Clearinghouse and share its quality control standards with campus-based student support services offices serving students with disabilities;

(3) promote data conversion and programming to allow the electronic exchange of bibliographic information between existing on line systems;

(4) encourage outreach efforts that will educate print-disabled individuals, as defined by section 652(d)(2) of the Individuals With Disabilities Education Act, educators, schools, and agencies about the Clearinghouse's activities;

(5) upgrade existing computer systems at the Clearinghouse;

(6) coordinate with identifiable and existing data bases containing postsecondary education materials, including the programs authorized under section 652(d) of the Individuals With Disabilities Act; and

(7) develop and share national guidelines and standards for the production of audio and digital text materials.

(d) FEDERAL SHARE LIMITATION.—The Federal share under this section may not be more than—

(1) 80 percent of the total cost of the program in the first year;

(2) 60 percent of the total cost of the program in the second year; and

(3) 50 percent of the total cost of the program in the third year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of this section, $1,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 and 1995.

(20 U.S.C. 1452, note) Enacted July 23, 1992, P.L. 102–325, sec. 1521, 106 Stat. 833.

PART C—SCHOOL-BASED DECISIONMAKERS

SEC. 1531. TRAINING AND TECHNICAL ASSISTANCE FOR SCHOOL-BASED DECISIONMAKERS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Education is authorized to make grants to local education agencies, in consortia with one or more institutions of higher education, to establish programs to provide training and technical assistance to school-based decisionmakers in local education agencies implementing systemwide reform.

(b) APPLICATION.—To be eligible to receive a training and technical assistance demonstration grant under this section, consortia shall submit an application to the Secretary of Education in such form and containing or accompanied by such information as the Secretary may require. A copy of the application shall also be sent to the State educational agency for notification purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 and 1995.

(20 U.S.C. 1101, note) Enacted July 23, 1992, P.L. 102–325, sec. 1531, 106 Stat. 834.

PART D—GRANTS FOR SEXUAL OFFENSES EDUCATION

SEC. 1541. GRANTS FOR CAMPUS SEXUAL OFFENSES EDUCATION.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Education (hereafter in this part referred to as the "Secretary") is authorized to make grants to or enter into contracts with institutions of higher education or consortia of such institutions to enable such institution to carry out sexual offenses education and prevention programs under this section.

(2) AWARD BASIS.—The Secretary shall award grants and contracts under this section on a competitive basis.

(3) EQUITABLE PARTICIPATION.—The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions in the activities assisted under this part.

(4) PRIORITY.—In the award of grants and contracts under this section, the Secretary shall give priority to institutions of higher education or consortia of such institutions that show the greatest need for the sums requested.

(b) GENERAL SEXUAL OFFENSES PREVENTION AND EDUCATION GRANTS.—Funds provided under this part may be used for the following purposes:

(1) To provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of sexual offenses.

(2) To develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline sexual offense crimes.

(3) To develop, enlarge, or strengthen support services programs including medical or psychological counseling to assist victims' recovery from sexual offense crimes.

(4) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action.

(5) To implement, operate, or improve sexual offense education and prevention programs, including programs making use of peer-to-peer education.

(c) MODEL GRANTS.—Not less than 25 percent of the funds appropriated for this section in any fiscal year shall be available for grants or contracts for model demonstration programs which will be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student sexual offense victims.

(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible to be awarded a grant or contract under this section unless—

(1) its student code of conduct, or other written policy governing student behavior explicitly prohibits all forms of sexual offenses;

(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual offense of the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual offense, except that nothing in this section shall be interpreted to authorize disclosure to any person other than the victim; and

(3) the Secretary shall give priority to those applicants who do not have an established campus education program regarding sexual offenses.

(e) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to be awarded a grant or contract under this section for any fiscal year, an institution of higher education or consortium of such institutions shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) set forth the activities and programs to be carried out with funds granted under this part;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) explain how the program intends to address the issue of sexual offenses;

(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

(f) GRANTEE REPORTING.—Upon completion of the grant or contract period under this section, the grantee institution or consortium of such institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

(g) DEFINITIONS.—For purposes of this part, the term "sexual offenses educational and prevention" includes programs that provide education seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual offenses.

(h) GENERAL TERMS AND CONDITIONS.—

(1) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 150 days after such date, the Secretary shall publish final regulations implementing this section.

(2) REPORTS TO CONGRESS.—Not later than 180 days after the end of each fiscal year for which grants or contracts are awarded under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

(A) the amount of grants or contracts awarded under this section;

(B) a summary of the purposes for which those grants or contracts were awarded and an evaluation of their progress; and

(C) a copy of each grantee report filed pursuant to subsection (f) of this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $10,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1145h) Enacted July 23, 1992, P.L. 102–325, sec. 1541, 106 Stat. 834.

PART E—OLYMPIC SCHOLARSHIPS

SEC. 1543. OLYMPIC SCHOLARSHIPS.

(a) SCHOLARSHIPS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Education is authorized to provide financial assistance to the United States Olympic Education Center or the United States Olympic Training Center to enable such centers to provide financial assistance to athletes who are training at such centers and are pursuing postsecondary education at institutions of higher education (as such term is defined in section 481(a) of the Higher Education Act of 1965).

(2) AWARD DETERMINATION.—The amount of financial assistance provided to athletes described in paragraph (1) shall

be determined in accordance with such athlete's financial need as determined in accordance with part F of title IV of the Higher Education Act of 1965.

(b) ELIGIBILITY.—The Secretary of Education shall ensure that financial assistance provided under this part is available to both full-time and part-time students who are athletes at centers described in subsection (a).

(c) APPLICATION.—Each center desiring financial assistance under this section shall submit an application to the Secretary of Education at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

(20 U.S.C. 1070, note) Enacted July 23, 1992, P.L. 102–325, sec. 1543, 106 Stat. 836.

PART F—NEED-BASED AID

SEC. 1544. AUTHORITY TO AWARD NEED-BASED AID.

(a) EFFECT ON PENDING CASES PROHIBITED.—Nothing in this section shall in any way be construed to affect any antitrust litigation pending on the date of enactment of this Act.

(b) IN GENERAL.—Except as provided in subsections (a), (c), and (e), institutions of higher education may—

(1) voluntarily agree with any other institution of higher education to award financial aid not awarded under the Higher Education Act of 1965 to students attending those institutions only on the basis of demonstrated financial need for such aid; and

(2) discuss and voluntarily adopt defined principles of professional judgment for determining student financial need for aid not awarded under the Higher Education Act of 1965.

(c) EXCEPTION.—Institutions of higher education shall not discuss or agree with each other on the prospective financial aid award to a specific common applicant for financial aid.

(d) RELATED MATTER.—No inference of unlawful contract, combination, or conspiracy shall be drawn from the fact that institutions of higher education engage in conduct authorized by this section.

(e) SUNSET PROVISION.—This section shall expire on September 30, 1994.

(20 U.S.C. 1088, note) Enacted July 23, 1992, P.L. 102–325, sec. 1544, 106 Stat. 837.

PART G—ADVANCED PLACEMENT FEE PAYMENT PROGRAM

SEC. 1545. ADVANCED PLACEMENT FEE PAYMENT PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary of Education is authorized to make grants to States to enable the States to reimburse individuals to cover part or all of the cost of advance placement test fees, to low-income individuals who—

(1) are enrolled in an advanced placement class; and

(2) plan to take an advanced placement test.

(b) INFORMATION DISSEMINATION.—The State educational agency shall disseminate information on the availability of test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for grants the Secretary of Education shall—

(1) require that each such application contain a description of the advance placement test fees the State will pay on behalf of individual students;

(2) require an assurance that any funds received under this section shall only be used to pay advanced placement test fees; and

(3) contain such information as the Secretary may require to demonstrate that the State will ensure that the student is eligible for payments under this section, including the documentation required by chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

(d) SUPPLEMENTATION OF FUNDING.—Funds provided under this section shall be used to supplement and not supplant other Federal, State, and local or private funds available to assist low-income individuals in paying for advanced placement testing.

(e) REGULATIONS.—The Secretary of Education shall prescribe such regulations as are necessary to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,600,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

(g) DEFINITION.—As used in this section:

(1) ADVANCED PLACEMENT TEST.—The term "advanced placement test" includes only an advanced placement test approved by the Secretary of Education for the purposes of this section.

(2) LOW-INCOME INDIVIDUAL.—The term "low-income individual" has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965.

(20 U.S.C. 1070a-11, note) Enacted July 23, 1992, P.L. 102–325, sec. 1545, 106 Stat. 837.

PART H—AMENDMENTS TO OTHER LAWS

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[Text as amended printed elsewhere in this and other volumes of this compilation.]

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PART I—BUY AMERICA

SEC. 1561. SENSE OF CONGRESS.

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of student assistance or other Federal assistance under the Act should, in expanding that assistance, purchase American-made equipment and products.

Enacted July 23, 1992, P.L. 102–325, sec. 1561, 106 Stat. 841.

LAND-GRANT COLLEGES

Act of July 2, 1862 (7 U.S.C. 301 et. seq.), Commonly Known as the First Morrill Act

(As amended through December 31, 1991, P.L. 102–243)

AN ACT Donating public lands to the several States and Territories which may provide Colleges for the Benefit of Agriculture and the Mechanic Arts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be granted to the several States, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each senator and representative in Congress to which the States are respectively entitled by the apportionment under the census of eighteen hundred and sixty: *Provided,* That no mineral lands shall be selected or purchased under the provisions of this act.

(7 U.S.C. 301) Enacted July 2, 1862, ch. 130, sec. 1, 12 Stat. 503.

SEC. 2. *And be it further enacted,* That the land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one quarter of a section; and whenever there are public lands in a State, subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said State shall be entitled shall be selected from such lands within the limits of such State, and the Secretary of Interior is hereby directed to issue to each of the States in which there is not the quantity of public lands subject to sale at private entry at one dollar and twenty-five cents per acre, to which said State may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share: said scrip to be sold by said States and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other use or purposes whatsoever: *Provided,* That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any Territory of the United States, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry at one dollar and twenty-five cents, or less, per acre: *And provided, further,* That not more than one million acres shall be located by such assignees in any one of the States: *And provided, further,* That no such location shall be made before one year from the passage of this act.

(7 U.S.C. 303) Enacted July 2, 1862, ch. 130, sec. 2, 12 Stat. 503.

SEC. 3. *And be it further enacted,* That all the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes hereinafter mentioned.

(7 U.S.C. 302) Enacted July 2, 1862, ch. 130, sec. 3, 12 Stat. 504.

SEC. 4. That all moneys derived from the sale of lands aforesaid by the States to which lands are apportioned and from the sale of land scrip hereinbefore provided for shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: *Provided*, That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 5 of this Act), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this Act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

(7 U.S.C. 304) Enacted July 2, 1862, ch. 130, sec. 4, 12 Stat. 504; amended Mar. 3, 1883, ch. 102, 22 Stat. 484; amended Apr. 13, 1926, P.L. 113, 69th Cong., 44 Stat. 247.

SEC. 5. *And be it further enacted*, That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions hereinbefore contained, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding ten per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States.

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretence whatever, to the purchase, erection, preservation, or repair of any building or buildings.

Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as described in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid.

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail free[1], by each, to all the other colleges which may be endowed under the provisions of this act, and also one copy to the Secretary of the Interior.

Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionally diminished.

Sixth. No State while in a condition of rebellion or insurrection against the government of the United States shall be entitled to the benefit of this act.

Seventh. No State shall be entitled to the benefits of this act unless it shall express its acceptance thereof by its legislature within two years from the date of its approval by the President.

(7 U.S.C. 305) Enacted July 2, 1862, ch. 130, sec. 5, 12 Stat. 504.

[Section 6; 7 U.S.C. 306 repealed by Ch. 14, § 1, December 16, 1930, 46 Stat. 1028]

SEC. 7. *And be it further enacted,* That the land officers shall receive the same fees for locating land scrip issued under the provisions of this act as is now allowed for the location of military bounty land warrants under existing laws; *Provided,* their maximum compensation shall not be thereby increased.

(7 U.S.C. 307) Enacted July 2, 1862, ch. 130, sec. 7, 12 Stat. 505.

SEC. 8. *And be it further enacted,* That the Governors of the several States to which scrip shall be issued under this act shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

(7 U.S.C. 308) Enacted July 2, 1862, ch. 130, sec. 8, 12 Stat. 505.

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[1] There are no amendments striking the term "free" in the fourth paragraph of section 5, however a general amendment in section 3 of the Act of March 3, 1873, ch. 231, 17 Stat. 559, which the proviso reads as follows: *Provided,* That all laws and parts of laws permitting the transmission by mail of any free matter whatever be, and the same are hereby, repealed from and after June thirtieth, eighteen hundred and seventy-three.

Act of August 30, 1890 (7 U.S.C. 321 et. seq.); Commonly Known as the Second Morrill Act

(As amended through December 31, 1991, P.L. 102–243)

AN ACT To apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provsions of an act of Congress approved July second, eighteen hundred and sixty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be, and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, arising from the sales of public lands, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts now established, or which may be hereafter established, in accordance with an act of Congress approved July second, eighteen hundred and sixty-two, the sum of fifteen thousand dollars for the year ending June thirtieth, eighteen hundred and ninety, and an annual increase of the amount of such appropriation thereafter for ten years by an additional sum of one thousand dollars over the preceding year, and the annual amount to be paid thereafter to each State and Territory shall be twenty-five thousand dollars to be applied only to instruction in food and agricultural sciences, and to the facilities for such instruction: *Provided,* That no money shall be paid out under this act to any State or Territory for the support and maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of this act if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided,* That in any State in which there has been one college established in pursuance of the act of July second, eighteen hundred and sixty-two, and also in which an educational institution of like character has been established, or may be hereafter established, and is now aided by such State from its own revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money heretofore under the act to which this act is an amendment, the legislature of such State may propose and report to the Secretary of the Interior a just and equitable division of the fund to be received under this act between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of this act and subject to its provisions, as much as it would have been if it had been included under the act of eighteen hundred and sixty-two, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

(7 U.S.C. 322, 323) Enacted August 30, 1890, ch. 841, sec. 1, 26 Stat. 417; amended March 4, 1907, P.L. 242, 59th Cong., 34 Stat. 1282; authority transferred with the Office of Education to the Federal Security Agency July 1, 1939, 1939 Reorg. Plan No. 1, secs. 201, 204, 4 F.R. 2728, 53 Stat. 1424; transferred to the Dept. of H.E.W. April 11, 1953, 1953 Reorg. Plan No. 1, secs. 5, 8, 18 F.R. 2053, 67 Stat. 631; amended P.L. 97–98.

SEC. 2. That the sums hereby appropriated to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the thirty-first day of October of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of the Interior, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the college, or the institution for colored students immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers shall be required to report to the Secretary of Agriculture and to the Secretary of the Interior, on or before the first day of December of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this act are made subject to the legislative assent of the several States and Territories to the purpose of said grants: *Provided*, That payments of such installments of the approtion[1] herein made as shall become due to any State before the adjournment of the regular session of legislature meeting next after the passage of this act shall be made upon the assent of the governor thereof, duly certified to the Secretary of the Treasury.

(7 U.S.C. 324) Enacted August 30, 1890, ch. 841, sec. 2, 26 Stat. 418; amended April 21, 1976, P.L. 94–273, sec. 9(1), 90 Stat. 378.

SEC. 3. That if any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this act, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, as well as to the Secretary of the Interior, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their cost and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this act.

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[1] So in law.

(7 U.S.C. 325) Enacted August 30, 1890, ch. 841, sec. 3, 26 Stat. 418.

SEC. 4. That on or before the first day of October in each year, after the passage of this act, the Secretary of the Interior shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this act, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of the Interior shall withhold a certificate from any State or Territory of its appropriation the facts and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory may, if it should so desire, appeal to Congress from the determination of the Secretary of the Interior. If the next Congress shall not direct such sum to be paid it shall be covered into the Treasury. And the Secretary of the Interior is hereby charged with the proper administration of this law.[1]

(7 U.S.C. 321, 326) Enacted August 30, 1890, ch. 841, sec. 4, 26 Stat. 419, amended April 21, 1976, P.L. 94–273, sec. 3(1), 90 Stat. 376.

SEC. 6. Congress may at any time amend, suspend, or repeal any or all of the provisions of this act.

(7 U.S.C. 328) Enacted August 30, 1890, ch. 841, sec. 5, 26 Stat. 419.

SEC. 5.[2] There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or its successor governments the amount they would be entitled to receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 1.

(7 U.S.C. 326a) Enacted June 23, 1972, P.L. 92–318, sec. 506(c), 86 Stat. 350; amended October 3, 1980, P.L. 96–374, sec. 1361(b), 94 Stat. 1502; amended Aug. 27, 1986, P.L. 99–396, sec. 9(b), 100 Stat. 840; amended June 17, 1988, P.L. 100–339, sec. 2, 102 Stat. 621.

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[1] Administration of the Second Morrill Act transferred to the Secretary of Agriculture by section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3101 note). See page 123 of this compilation.

[2] This section 5 was first added at the end of the Act of August 30, 1890 (Second, Morrill Act; (therefore after section 6)) by section 506(c) of P.L. 92–318 (86 Stat. 350). The 1988 amendment (P.L. 100–339, sec. 2) did not change the placement of the section.

Bankhead-Jones Act

AN ACT Providing for research into basic laws and principles relating to agriculture, further development of cooperative agricultural extension work, and more complete endowment and support of land-grant colleges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEC. 22. In order to provide for the more complete endowment and support of the colleges in the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands entitled to the benefits of the Act entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic acts," approved July 2, 1862, as amended and supplemented (7 U.S.C. 301-328), there are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriate, the following amounts:

(a) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $8,250,000; and

(b) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter $4,380,000.

The sums appropriated in pursuance of paragraph (a) shall be paid annually to the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands in equal shares. The sums appropriated in pursuance of paragraph (b) shall be in addition to sums appropriated in pursuance of paragraph (a) and shall be allotted and paid annually to each of the several States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands in the proportion to which the total population of each State, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands bears to the total population of all the States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under such Act of July 2, 1862, as amended and supplemented, and shall be applied only for the purposes of the colleges defined in such Act, as amended and supplemented. The provisions of law applicable to the use and payment of sums under the Act entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an Act of Congress approved July 2, 1862," approved August 30, 1890, as amended and supplemented, shall apply to the use and payment of sums appropriated in pursuance of this section.

(7 U.S.C. 329) Enacted June 29, 1935. P.L. 182, 74th Cong., sec. 22, 49 Stat. 439; amended June 29, 1952, P.L. 390, 82nd Cong., secs. 1–4, 66 Stat. 135, amended July

14, 1960, P.L. 86–658, sec. 1, 74 Stat. 525; amended June 23, 1972, P.L. 92–318, sec. 506(d), 86 Stat. 350, 351; amended August 27, 1986, P.L. 99–396, sec. 9(d), 100 Stat. 840.

Harry S Truman Memorial Scholarship Act

AN ACT To establish the Harry S Truman memorial scholarships, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Harry S Truman Memorial Scholarship Act".

(20 U.S.C. 2001, note) Enacted January 4, 1975, P.L. 93–642, sec. 1, 88 Stat. 2276.

STATEMENTS OF FINDINGS

SEC. 2. The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S Truman through the creation of perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

(20 U.S.C. 2001) Enacted January 4, 1975, Public Law 93–642, sec. 2, 88 Stat. 2276.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Board" means the Board of Trustees of the Harry S Truman Scholarship Foundation;

(2) "Foundation" means the Harry S Truman Scholarship Foundation;

(3) "fund" means the Harry S Truman Memorial Scholarship Fund;

(4) "institution of higher education" means any such institution as defined by section 1201(a) of the Higher Education Act of 1965;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) "Secretary" means the Secretary of the Treasury.

(20 U.S.C. 2002) Enacted January 4, 1975, Public Law 93–642, sec. 3, 88 Stat. 2276.

SEC. 4. The Harry S Truman Scholarship Program as authorized by this Act shall be the sole Federal memorial to President Harry S Truman.

(20 U.S.C. 2003) Enacted January 4, 1975, Public Law 93–642, sec. 4, 88 Stat. 2277.

ESTABLISHMENT OF THE HARRY S TRUMAN SCHOLARSHIP PROGRAM

SEC. 5. (a) There is established, as an independent establishment of the executive branch of the United States Government, the Harry S Truman Scholarship Foundation.

(b) (1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal Court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Commissioner of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(20 U.S.C. 2004) Enacted January 4, 1975, Public Law 93–642, 88 Stat. 2277.

SCHOLARSHIPS

SEC. 6. (a) The Foundation is authorized to award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service. Award recipients shall be known as Truman scholars.

(b) Scholarships under this Act shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(c) A student awarded a scholarship under this Act may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

(d) Each student awarded a scholarship under this Act must have indicated a serious intent to enter the public service upon the completion of his or her educational program. Each institution of higher education at which such a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his or her educational program.

(20 U.S.C. 2005) Enacted January 4, 1975, Public Law 93-642, 88 Stat. 2278.

SELECTION OF TRUMAN SCHOLARS

SEC. 7. (a) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the purpose of selecting Truman scholars.

(b) The Foundation shall adopt selection procedures which shall assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation.

(20 U.S.C. 2006) Enacted January 4, 1975, Public Law 93-642, sec. 7, 88 Stat. 2278.

STIPENDS

SEC. 8. Each student awarded a scholarship under this Act shall receive a stipend which shall not exceed the cost to such students for tuition, fees, books, room and board, or $10,000 (adjusted annually to reflect increases, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics) whichever is less for each academic year of study.

(20 U.S.C. 2007) Enacted January 4, 1975, Public Law 93-642, sec. 8, 88 Stat. 2278; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 904.

SCHOLARSHIP CONDITIONS

SEC. 9. (a) A student awarded a scholarship under the provisions of this Act shall continue to receive the payments provided in this Act only during such periods as the Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research designed to prepare him or her for a career in public service and is not otherwise engaging in gainful employment other than employment approved by the Foundation pursuant to regulation.

(b) The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this act. Such reports shall be accompanied by a certificate from any appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a).

(20 U.S.C. 2008) Enacted January 4, 1975, Public Law 93-642, sec. 9, 88 Stat. 2278.

TRUMAN MEMORIAL SCHOLARSHIP FUND

SEC. 10. (a) There is established in the Treasury of the United States a trust fund to be known as the Harry S Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 14 of this act.

(b) It shall be the duty of the Secretary to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligation shall bear interest a a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eight of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(20 U.S.C. 2009) Enacted January 4, 1975, Public Law 93–642, sec. 10, 88 Stat. 2279.

EXPENDITURES FROM THE FUND

SEC. 11. (a) The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of the Act.

(b) The activities of the Foundation under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(20 U.S.C. 2010) Enacted January 4, 1975, Public Law 93–642, sec. 11, 88 Stat. 2279.

EXECUTIVE SECRETARY

SEC. 12. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this Act as the Board shall delegate.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

(20 U.S.C 2011) Enacted January 4, 1975, Public Law 93–642, sec. 12, 88 Stat. 2280.

ADMINISTRATIVE PROVISIONS

SEC. 13. (a) In order to carry out the provisions of this Act, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this Act.

(20 U.S.C. 2012) Enacted January 4, 1975, Public Law 93–642, sec. 14, 88 Stat. 2280.

APPROPRIATIONS AUTHORIZED

SEC. 14. There are authorized to be appropriated $30,000,000 to the fund.

(20 U.S.C. 2013) Enacted January 4, 1975, Public Law 93–642, sec. 14, 88 Stat. 2280.

PART II—NATIVE AMERICAN HIGHER EDUCATION

Navajo Community College Act[1]

(P.L. 92–189)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Aact may be cited as the "Navajo Community College Act".

(25 U.S.C. 640a, note) Enacted December 15, 1971, P.L. 92–189, sec. 1, 85 Stat. 646.

PURPOSE

SEC. 2. It is the purpose of this Act to assist the Navajo Tribe of Indians in providing education to the members of the tribe and other qualified applicants through a community college, established by that tribe, known as the Navajo Community College.

(25 U.S.C. 640a) Enacted December 15, 1971, P.L. 92–189, sec. 2, 85 Stat. 646.

GRANTS

SEC. 3. The Secretary of Interior is authorized to make grants to the Navajo Tribe of Indians to assist the tribe in the construction, maintenance, and operation of the Navajo Community College. Such college shall be designed and operated by the Navajo Tribe to insure that the Navajo Indians and other qualified applicants have educational opportunities which are suited to their unique needs and interests.

(25 U.S.C. 640b) Enacted December 15, 1971, P.L. 92–189, sec. 3, 85 Stat. 646.

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[1] Enacted Dec. 15, 1971, P.L. 92–189, 84 Stat. 646.

This statute was amended Oct. 17, 1978 by Title II of the Tribally Controlled Community College Assistance Act of 1978 (entitled "Navajo Community College Assistance Act of 1978", P.L. 95–471, Title II, 92 Stat. 1329–1331) which includes the following congressional findings:

"CONGRESSIONAL FINDINGS

"SEC. 202. The Congress after careful study and deliberation, finds that—

"(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

"(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

"(3) the population of the Navajo Tribe and the best area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population; and

"(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act.".

Section 203(b) of this Act (P.L. 95–471, Title II) states that "Nothing in this title or in the amendment made by this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978."

STUDY OF FACILITIES NEEDS

SEC. 4.[1] (a) The Secretary shall conduct a detailed survey and study of the academic facilities needs of the Navajo Community College, and shall report to the Congress not later than August 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of such College and by the governing body of the Navajo Tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

(b) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of the Tribally Controlled Community College Assistance Act of 1978.

(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evaluation prepared by the health and safety division of the Bureau of Indian Affairs.

(25 U.S.C. 640c) Enacted December 15, 1971, P.L. 92–189, sec. 4, 85 Stat. 646; amended October 17, 1978, P.L. 95–471, sec. 203(a), 92 Stat. 1330; amended October 30, 1990, P.L. 101–477, sec. 2(b), 104 Stat. 1153.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. (a)(1) For the purpose of making construction grants under this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for construction shall, unless otherwise provided in appropriations Acts, remain available until expended.

(b)(1) There are authorized to be appropriated for grants to the Navajo Community College, for each fiscal year, an amount necessary to pay expenses incurred for—

(A) the maintenance and operation of the college, including—

(i) basic, special, developmental, vocational, technical, and special handicapped education costs,

(ii) annual capital expenditures, including equipment needs, minor capital improvements and remodeling projects, physical plant maintenance and operation costs, and exceptions and supplemental need account, and

(iii) summer and special interest programs,

(B) major capital improvements, including internal capital outlay funds and capital improvement projects,

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[1] This section was expressly precluded from authorizing appropriations for the fiscal year beginning Oct. 1, 1978 by sec. 203(b) of P.L. 95–471.

(C) mandatory payments, including payments due on bonds, loans, notes, or lease purchases, and

(D) supplemental student services, including student housing, food service, and the provision of access to books and services.

(2) No grant under this subsection shall exceed—

(A) $4,000 for each such full-time equivalent Indian student in actual attendance at such college; or

(B) the total annual cost of the education program provided by such college,

whichever is less.

(3) The Secretary shall make payments, pursuant to grants under this subsection, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

(25 U.S.C. 640c–1) Enacted October 17, 1978, P.L. 95–471, sec. 203(a), 92 Stat. 1330; amended October 3, 1980, P.L. 96–374, sec. 1351, 94 Stat 1501; amended September 30, 1986, P.L. 99–428, sec. 7, 100 Stat. 983; amended Apr. 28, 1988, P.L. 100–297, sec. 5401, 102 Stat. 414–415; amended October 30, 1990, P.L. 101–477, sec. 2(a), 104 Stat. 1153; amended July 23, 1992, P.L. 102–325, sec. 1301(d), 106 Stat. 797.

EFFECT ON OTHER LAWS

SEC. 6. (a) Except as specifically provided by law, eligibility for assistance under this Act shall not, by itself, preclude the eligibility of the Navajo Community College to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(b) Notwithstanding any other provision of law, funds provided under this Act to the Navajo Community College may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law which requires that non-Federal or private funds of the college[1] be used in a project or for a specific purpose.

(25 U.S.C. 640–2) Enacted Oct. 3, 1980, P.L. 96–374, sec. 1351(c), 94 Stat. 1501; amended Apr. 28, 1988, P.L. 100–297, sec. 5403(b), 102 Stat. 416.

PAYMENTS; INTEREST

SEC. 7. (a) Notwithstanding any other provision of law, the Secretary of the Interior shall not, in disbursing funds provided under this Act, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this Act.

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[1] So in law. Probably should be "College".

(b)(1)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this Act after such funds are paid to the Navajo Community College and before such funds are expended for the purpose for which such funds were provided under this Act shall be the property of the Navajo Community College and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the Navajo Community College under any provision of Federal law.

(B) All interest or investment income described in subparagraph (A) shall be expended by the Navajo Community College by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

(2) Funds provided under this Act may only be invested by the Navajo Community College in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.

(25 U.S.C. 640c–3) Enacted Apr. 28, 1988, P.L. 100–297, sec. 5402(b), 102 Stat. 415–416.

Tribally Controlled Community College Assistance Act of 1978

(P.L. 95–471)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1978".

(25 U.S.C. 1801 note) Enacted October 17, 1978, P.L. 95–471, sec. 1, 92 Stat. 1325.

DEFINITIONS

SEC. 2. (a) For purposes of this Act, the term—

(1) "Indian" means a person who is a member of an Indian tribe;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior;

(6) "national Indian organization" means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education;

(7) "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve; and

(8) "satisfactory progress toward a degree or certificate" has the meaning given to such term by the institution at which the student is enrolled.

(b) The following conditions shall apply for the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a):

(1) Such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term.

(2) Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

(4) Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours.

(5) Credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.

(6) No credit hours earned by an Indian student who is not making satisfactory progress toward a degree or certificate, shall be taken into account.

(25 U.S.C. 1801) Enacted October 17, 1978, P.L. 95–471, sec. 1, 92 Stat. 1325; amended December 1, 1983, P.L. 98–192, sec. 1, 97 Stat. 1335; amended September 30, 1986, P.L. 99–428, sec. 3, 100 Stat. 982.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSE

SEC. 101. It is the purpose of this title to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(25 U.S.C. 1802) Enacted October 17, 1978, P.L. 95–471, title I, sec. 101, 92 Stat. 1325; amended December 1, 1983, P.L. 98–192, sec. 2, 97 Stat. 1336.

GRANTS AUTHORIZED

SEC. 102. (a) The Secretary shall, subject to appropriations, make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

(25 U.S.C. 1803) Enacted October 17, 1978, P.L. 95–471, title I, sec. 102, 92 Stat. 1326; amended December 1, 1983, P.L. 98–192, sec. 3, 97 Stat. 1336.

ELIGIBLE GRANT RECIPIENTS

SEC. 103. To be eligible for assistance under this title, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of whom are Indians.

(25 U.S.C. 1804) Enacted October 17, 1978, P.L. 95–471, title I, sec. 103, 92 Stat. 1326.

PLANNING GRANTS

SEC. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities (1) to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or (2) to determine the need and potential for the establishment of such colleges.

(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than $15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.

(25 U.S.C. 1804a) Enacted December 1, 1983, P.L. 98–192, sec. 4(a)(2), 97 Stat. 1336.

TECHNICAL ASSISTANCE CONTRACTS

SEC. 105. The Secretary shall provide, upon request from a tribally controlled community college which is receiving funds under section 108, technical assistance either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted. No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

(25 U.S.C. 1805) Enacted October 17, 1978, P.L. 95–471, title I, sec. 104, 92 Stat. 1326; amended December 1, 1983, P.L. 98–192, secs. 4, 5, 97 Stat. 1336.

ELIGIBILITY STUDIES

SEC. 106. (a) The Secretary is authorized to enter into an agreement with the Secretary of Education to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the eligibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a eligibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution. Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 5 per centum of the funds appropriated to carry out section 107 for such fiscal year.

(25 U.S.C. 1806) Enacted October 17, 1978, P.L. 95–471, title I, sec. 105, 92 Stat. 1326; amended October 17, 1979, P.L. 96–88, title III, sec. 301(a)(1), title V, sec. 507, 93 Stat. 677, 692; amended December 1, 1983, P.L. 98–192, sec. 3(b), 4(a)(1), (b)(1), 6(a), 97 Stat. 1336, 1337.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 107. (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds. The Secretary shall not consider any grant application unless a eligibility study has been conducted under section 106 and it has been found that the applying community college will service a reasonable student population.

(b) The Secretary shall consult with the Secretary of Education to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(25 U.S.C. 1807) Enacted October 17, 1978, P.L. 95–471, title I, sec. 106, 92 Stat. 1327; amended October 17, 1979, P.L. 96–88, title III, sec. 301(a)(1), title V, sec. 507, 93 Stat. 677, 692; amended December 21, 1982, P.L. 97–375, title I, sec. 108(c), 96 Stat. 1820; amended December 1, 1983, P.L. 98–192, secs. 3(b), 4(a)(1), (b)(2), 6(b), 97 Stat. 1336, 1337.

AMOUNT OF GRANTS

SEC. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and

(2) $5,820,

except that no grant shall exceed the total cost of the education program provided by such college.

(b)(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.

(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this title, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this title.

(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this title after such funds are paid to the tribally controlled community college and before such funds are expended for the purpose for which such funds were provided under this title shall be the property of the tribally controlled community college and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled community college under any provision of Federal law.

(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled community college by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

(4) Funds provided under this title may only be invested by the tribally controlled community college in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.

(c)(1) Each institution receiving payments under this title shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges.

(d) Nothing in this section shall be construed as interfering with, or suspending the obligation of the Bureau for, the implementation of all legislative provisions enacted prior to April 28, 1988, specifically including those of Public Law 98–192.

(25 U.S.C. 1808) Enacted October 17, 1978, P.L. 95–471, title I, sec. 107, 92 Stat. 1327; amended December 21, 1982, P.L. 97–375, title I, sec. 108(c), 96 Stat. 1820, amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 7, 97 Stat. 1336, 1337; amended September 30, 1986, P.L. 99–428, sec. 4, 100 Stat. 983; amended April 28, 1988, P.L. 100–297, sec. 5402, 102 Stat. 415; amended September 9, 1988, P.L. 100–427, sec. 24, 102 Stat. 1613; amended October 30, 1990, P.L. 101–477, sec. 1(a), 104 Stat. 1152.

EFFECT ON OTHER PROGRAMS

SEC. 109. (a) Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(2) No tribally controlled community college shall be denied funds appropriated under such Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(3) No tribally controlled community college for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(d)[1] Notwithstanding any other provision of law, funds provided under this title to the tribally controlled community college may be treated as non-Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.

(25 U.S.C. 1809) Enacted October 17, 1978, P.L. 95–471, title I, sec. 108, 92 Stat. 1328; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 8, 97 Stat. 1336, 1337; amended September 30, 1986, P.L. 99–428, sec. 5, 100 Stat. 983; amended Apr. 28, 1988, P.L. 100–297, sec. 5403, 102 Stat. 416.

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[1] Sec. 109(d) should probably be a "(c)".

APPROPRIATION AUTHORIZATION

SEC. 110. (a)(1) There is authorized to be appropriated, for the purpose of carrying out section 105, $3,200,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There is authorized to be appropriated for the purpose of carrying out section 107, $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) There is authorized to be appropriated for the purpose of carrying out sections 112(b) and 113, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(4) Funds appropriated pursuant to the authorizations under this section for the fiscal year 1993 and for each of the succeeding 4 fiscal years shall be transferred by the Secretary of the Treasury through the most expeditious method available, with each of the Tribally Controlled Community Colleges being designated as its own certifying agency.

(b)(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).

(25 U.S.C. 1810) Enacted October 17, 1978, P.L. 95–471, title I, sec. 109, 92 Stat. 1328; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 9, 97 Stat. 1336, 1337; amended September 30, 1986, P.L. 99–428, sec. 2(a), 100 Stat. 982; amended October 30, 1990, P.L. 101–477, sec. 1(b), 104 Stat. 1152; amended July 23, 1992, P.L. 102–325, sec. 1301(a), 106 Stat. 797.

GRANT ADJUSTMENTS

SEC. 111. (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;

(B) the Secretary shall next allocate to applicants who did not receive funds under such section for the preceding fiscal year an amount equal to 100 per centum of the product of—

(i) the per capita payment for the preceding fiscal year; and

(ii) the applicant's projected Indian student count for the academic year for which payment is being made;

in the order in which such applicants have qualified for assistance in accordance with such section so that no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B), the Secretary shall allocate such funds by—

(i) ratably increasing the amounts of the grants determined under subparagraph (A) until such grants are equal to 100 per centum of the product described in such subparagraph; and

(ii) then ratably increasing the amounts of both (I) the grants determined under subparagraph (A), as increased under clause (i) of this subparagraph, and (II) the grants determined under subparagraph (B).

(2) For purposes of paragraph (1) of this subsection, the term "per capita payment" for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A), the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts.

(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1983, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.

(c) In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for allocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 107(a) of this title.

(25 U.S.C. 1811) Enacted October 17, 1978, P.L. 95–471, title I, sec. 110, 92 Stat. 1328; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 4(b)(3), 10, 97 Stat. 1336, 1338; amended October 30, 1990, P.L. 101–477, sec. 1(c), 104 Stat. 1152.

REPORT ON FACILITIES

SEC. 112. (a) The Secretary shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than eighteen months after the date of enactment of the Tribally Controlled Community College Assistance Amendments of 1986. Such report shall also include an identification of property—

(1) on which structurally sound buildings suitable for use as educational facilities are located, and

(2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

(b) The Secretary, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

(c)(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges that receive funding under this Act or the Navajo Community College Act.

(2) An organization described in this section is any organization that—

(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act; and

(B) has demonstrated expertise in areas and issues dealing with tribally controlled community colleges.

(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.

(d) For the purposes of this section, the term "reconstruction" has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(2)(B)).

(25 U.S.C. 1812) Enacted October 17, 1978, P.L. 95–471, title I, sec. 111, 92 Stat. 1328; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 11, 97 Stat. 1336, 1339; amended September 30, 1986, P.L. 99–428, sec. 6(b), 100 Stat. 983; amended September 25, 1990, P.L. 101–392, sec. 313, 104 Stat. 805.

CONSTRUCTION OF NEW FACILITIES

SEC. 113. (a) With respect to any tribally controlled community college for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

(b) In order to be eligible for a grant under this section, a tribally controlled community college—

(1) must be a current recipient of grants under section 105 or 107, and

(2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than $400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled community college may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in futherance of the general welfare of the community served by the tribal government,

title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under the Act of November 2, 1921 (25 U.S.C. 13)) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

(f) For the purposes of this section—

(1) the term "construction" includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(2)(B))); and

(2) the term "academic facilities" has the meaning provided such term under section 742(1) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(1)).

(25 U.S.C. 1813) Enacted October 17, 1978, P.L. 95–471, title I, sec. 112, 92 Stat. 1329; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 12, 97 Stat. 1336, 1340.

MISCELLANEOUS PROVISIONS

SEC. 114. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

(25 U.S.C. 1814) Enacted October 17, 1978, P.L. 95–471, title I, sec. 113, 92 Stat. 1329; amended December 1, 1983, sec. 4(a)(1), 97 Stat. 1336.

RULES AND REGULATIONS [1]

SEC. 115. (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

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[1] Public Law 98–192 (97 Stat. 1343), which reauthorized and amended the Act, included the following section:

"SEC. 15. In promulgating regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges.".

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

(d) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of this Act.

(25 U.S.C. 1815) Enacted October 17, 1978, P.L. 95–471, title I, sec. 114, 92 Stat. 1329; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 97 Stat. 1336.

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TITLE III—TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

PURPOSE

SEC. 301. It is the purpose of this title to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled community colleges.

(25 U.S.C. 1831) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1341.

ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

SEC. 302. (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endowment grants to tribally controlled community colleges which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year, but no such college shall be eligible for such a grant for a fiscal year if such college has been awarded a grant under section 333 of the Higher Education Act of 1965 for such fiscal year.

(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which—

(1) provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;

(2) provides for the deposit in such trust fund of—

(A) any Federal capital contributions made from funds appropriated under section 306;

(B) a capital contribution by such college in an amount (or of a value) equal to half of the amount of each Federal capital contribution; and

(C) any earnings of the funds so deposited;

(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time;

(4) provides that, if at any time such college withdraws any capital contribution made by that college, an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal shall be withdrawn and returned to the Secretary for reallocation to other colleges;

(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

(25 U.S.C. 1832) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1341; amended October 30, 1990, P.L. 101–477, sec. 1(d)(1)(A) and (B), 104 Stat. 1152.

USE OF FUNDS

SEC. 303. Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operation of such college, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(25 U.S.C. 1833) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1342.

COMPLIANCE WITH MATCHING REQUIREMENT

SEC. 304. For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled community college may use funds which are available from any private or tribal source. Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.

(25 U.S.C. 1834) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1342; amended October 30, 1990, P.L. 101–477, sec. 1(d)(1)(C), 104 Stat. 1153.

ALLOCATION OF FUNDS

SEC. 305. (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to twice the value of the property or the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 302(b)(2)(B), except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed $750,000.

(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled community college an amount equal to twice the value of the property or the amount demonstrated by such college pursuant to subsection (a), then the amount of the allocation to each such college shall be ratably reduced.

(25 U.S.C. 1835) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1342; amended October 30, 1990, P.L. 101–477, sec. 1(d)(1) (D) and (E), 104 Stat. 1153.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. (a) There are authorized to be appropriated to carry out the provisions of this title, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Any funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

(25 U.S.C. 1836) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1343; amended September 30, 1986, P.L. 99–428, sec. 2(b), 100 Stat. 982; amended October 30, 1990, P.L. 101–477, sec. 1(d)(1)(F), 104 Stat. 1153; amended July 23, 1992, P.L. 102–325, sec. 1301(b), 106 Stat. 797.

TITLE IV—TRIBAL ECONOMIC DEVELOPMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Tribal Economic Development and Technology Related Education Assistance Act of 1990".

(25 U.S.C. 1801 note) Enacted September 25, 1990, P.L. 101–392 sec. 312, 104 Stat. 804.

SEC. 402. GRANTS AUTHORIZED.

(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to the availability of appropriations, to make grants to tribally controlled community colleges which receive grants under either this Act or the Navajo Community College Act for the establishment and support of tribal economic development and education institutes. Each program conducted with assistance under a grant under this subsection shall include at least the following activities:

(1) Determination of the economic development needs and potential of the Indian tribes involved in the program, including agriculture and natural resource needs.

(2) Development of consistent courses of instruction to prepare postsecondary students, tribal officials and others to meet the needs defined under paragraph (1). The development of such courses may be coordinated with secondary institutions to the extent practicable.

(3) The conduct of vocational courses, including administrative expenses and student support services.

(4) Technical assistance and training to Federal, tribal and community officials and business managers and planners deemed necessary by the institution to enable full implementation of, and benefits to be derived from, the program developed under paragraph (1).

(5) Clearinghouse activities encouraging the coordination of, and providing a point for the coordination of, all vocational activities (and academically related training) serving all students of the Indian tribe involved in the grant.

(6) The evaluation of such grants and their effect on the needs developed under paragraph (1) and tribal economic self-sufficiency.

(b) AMOUNT AND DURATION.—The grants shall be of such amount and duration as to afford the greatest opportunity for success and the generation of relevant data.

(c) APPLICATIONS.—Institutions which receive funds under other titles of this Act or the Navajo Community College Act may apply for grants under this title either individually or as consortia. Each applicant shall act in cooperation with an Indian tribe or tribes in developing and implementing a grant under this part.

(25 U.S.C. 1851) Enacted September 25, 1990, sec. 312, P.L. 101–392, 104 Stat. 804.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for grants under this title, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(25 U.S.C. 1852) Enacted September 25, 1990, P.L. 101–392, sec. 316, 104 Stat. 804–805; amended July 23, 1992, P.L. 102–325, sec. 1301(c), 106 Stat. 797.

Higher Education Amendments of 1992

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TITLE XIII—INDIAN HIGHER EDUCATION PROGRAMS

PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 1301. REAUTHORIZATION OF THE TRIBALLY CONTROLLED COMMUNITY COLLEGES ACT.

(a) GENERAL AUTHORIZATION.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 (hereafter in this section referred to as the "Act") (25 U.S.C. 1810(a)) is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) ENDOWMENT GRANTS.—Section 306(a) of the Act (25 U.S.C. 1836(a)) is amended to read as follows:

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[Text as amended printed earlier in this volume.]

(c) ECONOMIC DEVELOPMENT.—Section 403 of the Act (25 U.S.C. 1852) is amended to read as follows:

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[Text as amended printed earlier in this volume.]

(d) NAVAJO COMMUNITY COLLEGES.—Section 5(a)(1) of the Navajo Community College Act of 1978 (25 U.S.C. 640c–1(a)(1)) is amended to read as follows:

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[Text as amended printed earlier in this volume.]

PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT

SEC. 1311. SHORT TITLE.

This part may be cited as the "Higher Education Tribal Grant Authorization Act".

(25 U.S.C. 3301) Enacted July 23, 1992, P.L. 102–325, sec. 1311, 106 Stat. 798.

SEC. 1312. FINDINGS.

The Congress finds that—

(1) there are increasing numbers of Indian students qualifying for postsecondary education, and there are increasing numbers desiring to go to postsecondary institutions;

(2) the needs of these students far outpace the resources available currently;

(3) Indian tribes have shown an increasing interest in administering programs serving these individuals and making decisions on these programs reflecting their determinations of the tribal and human needs;

(4) the contracting process under the Indian Self-Determination and Education Assistance Act has provided a mechanism for the majority of the tribes to assume control over this program from the Bureau of Indian Affairs;

(5) however, inherent limitations in the contracting philosophy and mechanism, coupled with cumbersome administrative procedures developed by the Bureau of Indian Affairs have effectively limited the efficiency and effectiveness of these programs;

(6) the provision of these services in the most effective and efficient form possible is necessary for tribes, the country, and the individuals to be served; and

(7) these services are part of the Federal Government's continuing trust responsibility to provide education services to American Indian and Alaska Natives.

(25 U.S.C. 3302) Enacted July 23, 1992, P.L. 102–325, sec. 1312, 106 Stat. 798.

SEC. 1313. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall, from the amounts appropriated for the purpose of supporting higher education grants for Indian students under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13), make grants to Indian tribes in accordance with the requirements of this part to permit those tribes to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education.

(b) LIMITATION ON SECRETARY'S AUTHORITY.—The Secretary shall not place any restrictions on the use of funds provided to an Indian tribe under this part that is not expressly authorized by this part.

(c) EFFECT ON FEDERAL RESPONSIBILITIES.—The provisions of this part shall not affect any trust responsibilities of the Federal Government.

(d) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

(25 U.S.C. 3303) Enacted July 23, 1992, P.L. 102–325, sec. 1313, 106 Stat. 798.

SEC. 1314. QUALIFICATION FOR GRANTS TO TRIBES.

(a) CONTRACTING TRIBES.—Any Indian tribe that obtains funds for educational purposes similar to those authorized in this part pursuant to contract under the Indian Self-Determination and Education Assistance Act may qualify for a grant under this part by submitting to the Secretary a notice of intent to administer a student assistance program under section 1313. Such notice shall be effective for the fiscal year following the fiscal year in which it is submitted, except that if such notice is submitted during the last 90 days of a fiscal year such notice shall be effective the second fiscal year following the fiscal year in which it is submitted, unless the Secretary waives this limitation.

(b) NONCONTRACTING TRIBES.—Any Indian tribe that is not eligible to qualify for a grant under this part by filing a notice under subsection (a) may qualify for such a grant by filing an application for such a grant. Such application shall be submitted under guidelines for programs under the Indian Self-Determination and Education Assistance Act, as in effect on January 1, 1991, and shall be reviewed under the standards, practices, and procedures applicable to applications to contract under such Act as in effect on the date the application is received, except that—

(1) if the tribe is not notified that its application has been disapproved within 180 days after it is filed with the Secretary, the application shall be deemed to be approved;

(2) if the application is disapproved, the Secretary shall provide technical assistance to the tribe for purposes of correcting deficiencies in the application;

(3) the Secretary shall designate an office or official to receive such applications, and shall toll the 180-day period described in paragraph (1) from the date of receipt by such office or official; and

(4) applications shall be approved for the fiscal year following the fiscal year in which submitted, unless the Secretary waives the limitation of this paragraph.

(c) TERMINATION OF GRANTS.—

(1) CONTINUING ELIGIBILITY PRESUMED.—An Indian tribe which has qualified under subsection (a) or (b) for a grant under this part for any fiscal year shall continue to be eligible for such a grant for each succeeding fiscal year unless the Secretary revokes such eligibility for a cause described in paragraph (2).

(2) CAUSES FOR LOSS OF ELIGIBILITY.—The Secretary may revoke the eligibility of an Indian tribe for a grant under this part if such tribe—

(A) fails to submit to the Bureau an annual financial statement that reports revenues and expenditures determined by use of an accounting system, established by the tribe, that complies with generally accepted accounting principles;

(B) fails to submit to the Bureau an annual program description, stating the number of students served, and containing such information concerning such students, their educational programs and progress, and the financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31, United States Code; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this part relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act and in effect on January 20, 1991.

(3) PROCEDURES FOR REVOCATION OF ELIGIBILITY.—The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this part except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearing and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act.

(25 U.S.C. 3304) Enacted July 23, 1992, P.L. 102–325, sec. 1314, 106 Stat. 799.

SEC. 1315. ALLOCATION OF GRANT FUNDS.

(a) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall continue to determine the amount of program funds to be received by each grantee under this part by the same method used for determining such distribution in fiscal year 1991 for tribally-administered and Bureau-administered programs of grants to individual Indians to defray postsecondary expenses.

(2) ADMINISTRATIVE COSTS.—In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 1314(a) to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self Determination and Education Assistance Act, as in effect at the time of application to grants being made.

(3) SINGLE GRANT; SEPARATE ACCOUNTS.—Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

(b) USE OF FUNDS.—Funds provided by grants under this part shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any educational expense of attendance in a postsecondary education program (as determined under the contracts applying to the postsecondary education program administered by tribes under the Indian Self Determination and Education Assistance Act (Public Law 93–638)), to the extent

that such expense is not met from other sources or cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this part, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in section 1315(a)(2).

(25 U.S.C. 3305) Enacted July 23, 1992, P.L. 102–325, sec. 1315, 106 Stat. 800.

SEC. 1316. LIMITATIONS ON USE OF FUNDS.

(a) USE FOR RELIGIOUS PURPOSES.—None of the funds made available under this part may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

(b) INTEREST ON FUNDS.—No interest or other income on any funds made available under this part shall be used for any purpose other than those for which such funds may be used.

(c) PAYMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) NEW GRANTEES.—For any tribe for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(d) INVESTMENT OF FUNDS.—

(1) TREATMENT AS TRIBAL PROPERTY.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) INVESTMENT REQUIREMENTS.—Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(e) RECOVERIES.—For the purposes of under recovery and over recovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

(25 U.S.C. 3306) Enacted July 23, 1992, P.L. 102–325, sec. 1316, 106 Stat. 801.

SEC. 1317. ADMINISTRATIVE PROVISIONS.

(a) BIENNIAL REPORT.—The Secretary shall submit a biennial report to the Congress on the programs established under this part. Such report shall include—

(1) a description of significant administrative actions taken by the Secretary under this part;

(2) the number of grants made under the authority of this part;

(3) the number of applications denied for such grants and the reasons therefor;

(4) the remedial actions taken to enable applicants to be approved;

(5) the number of students served, by tribe;

(6) statistics on the academic pursuits of the students provided assistance under this part and the average amount of assistance provided; and

(7) such additional information as the Secretary considers significant.

(b) ROLE OF THE DIRECTOR.—Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(c) APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.), except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(d) REGULATIONS.—The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

(e) RETROCESSION.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession. The tribal governing body requesting the retrocession shall specify whether the retrocession shall be to a contract administered by the tribe, or a tribal entity, under the authority of the Indian Self-Determination Act or to a Bureau administered program.

(f) DEFINITIONS.—For the purposes of this part:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The terms "Indian" and "Indian tribe" have the same meaning given those terms in sections 4 (d) and (e), respectively, of the Indian Self Determination and Education Assistance Act (P.L. 93–638, 20 U.S.C. 450b).

(25 U.S.C. 3307) Enacted July 23, 1992, P.L. 102–325, sec. 1317, 106 Stat. 802.

PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT

SEC. 1321. SHORT TITLE.

This part may be cited as the "Critical Needs for Tribal Development Act".

(25 U.S.C. 3321) Enacted July 23, 1992, P.L. 102–325, sec. 1321, 106 Stat. 803.

SEC. 1322. DEFINITIONS.

As used in this part:

(1) The term "federally funded higher education assistance" means any grant assistance provided to an Indian student from funds made available for such purpose by contract or grant to an Indian tribe from amounts appropriated under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13).

(2) The term "eligible Indian tribe or tribal organization" means any Indian tribe or tribal organization that qualifies to administer federally funded higher education assistance under a contract pursuant to the Indian Self-Determination and Education Assistance Act or under a grant pursuant to the Higher Education Tribal Grant Authorization Act.

(3) The term "Indian" has the meaning given such term in section 4(d) of the Indian Self Determination and Education Assistance Act (Public Law 93–638, 20 U.S.C. 450b).

(25 U.S.C. 3322) Enacted July 23, 1992, P.L. 102–325, sec. 1322, 106 Stat. 803.

SEC. 1323. SERVICE CONDITIONS PERMITTED.

(a) IN GENERAL.—An eligible Indian tribe or tribal organization may, in accordance with the requirements of this part, require any applicant for federally funded higher education assistance, as a condition of receipt of such assistance, to enter into a critical area service agreement in accordance with section 1324.

(b) CRITICAL AREA DESIGNATION.—Any eligible Indian tribe or tribal organization that intends to require critical area service agreements shall, by a formal action of the tribal council or its delegate, designate particular occupational areas as critical areas for the economic or human development needs of the tribe or its members. The tribe or organization shall notify the Secretary of the Interior in writing of such designated critical areas. Such designations shall be applicable to federally funded higher education assistance for any fiscal year following the fiscal year in which the designation is made until such designation is withdrawn by the tribe or organization by formal action. The tribe or organization shall notify the Secretary of the Interior in writing of any designations that are withdrawn.

(25 U.S.C. 3323) Enacted July 23, 1992, P.L. 102–325, sec. 1323, 106 Stat. 803.

SEC. 1324. CRITICAL AREA SERVICE AGREEMENTS.

(a) TERMS OF AGREEMENTS.—A critical area service agreement shall be an agreement between an Indian student who receives or who shall receive federally funded higher education assistance and an Indian tribe or tribal organization providing such assistance in which the student agrees—

(1) to undertake a course of study at an eligible institution (as that term is defined in section 435(a) of the Higher Education Act of 1965) in an area of critical need, as determined under section 1323, and to pursue that course of study to its completion; and

(2)(A) to perform, for each academic year for which the student receives federally funded higher education assistance under a critical area service agreement, one calendar year of service to the tribe or organization in an occupation that is in a critical area designated by the tribe pursuant to section 1322(b), commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay such assistance to the Secretary, together with interest thereon at a rate prescribed by the Secretary by regulation, in monthly or quarterly installments over not more than 5 years.

(b) SERVICE LIMITATIONS AND CONDITIONS.—The tribe or tribal organization shall agree that a student performing services under a critical area service agreement—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under a critical area service agreement—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any critical service area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available in any critical service area, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) in the case of any student who partially completes the service obligation of that student under subsection (a)(2)(A).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under a critical area service agreement—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

(25 U.S.C. 3324) Enacted July 23, 1992, P.L. 102–325, sec. 1324, 106 Stat. 803.

SEC. 1325. GENERAL PROVISIONS.

(a) APPLICATION OF EXISTING PROCEDURES.—Except as provided in subsection (b), the requirements relating to student eligibility, needs analysis, and determination of eligibility for the program to be attended regularly incorporated by reference into contracts under the Indian Self-Determination and Education Assistance Act for tribal operation of higher education grant programs prior to January 1, 1991, shall apply.

(b) ADDITIONAL, EXCESS, AND INCREMENTAL COSTS.—The tribe or tribal organization may establish in writing, subject to the review of the Secretary, procedures for determining additional, excess, or inducement costs to be associated with grants for critical area service agreements.

(25 U.S.C. 3325) Enacted July 23, 1992, P.L. 102–325, sec. 1325, 106 Stat. 805.

PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 1331. INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) BOARD OF DIRECTORS.—Section 1505 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4412) is amended

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[Text as amended printed earlier in this volume.]

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PART E—TRIBAL DEVELOPMENT STUDENT ASSISTANCE REVOLVING LOAN PROGRAM

SEC. 1341. SHORT TITLE.

This part may be cited as the "Tribal Development Student Assistance Act".

(25 U.S.C. 3331) Enacted July 23, 1992, P.L. 102–325, sec. 1341, 106 Stat. 809.

SEC. 1342. FINDINGS; PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) a substantial number of Indian students have partially completed their degrees in postsecondary education, but have been unable, for a number of reasons, to complete the degrees;

(2) in at least some measure these students have been supported by tribal funds or grants of Federal monies administered by the Bureau of Indian Affairs or tribes;

(3) the inability of the students to complete these degrees has led to a hardship for the students and a loss of a potential pool of talent to the tribes or tribal organizations which originally financed, at least in part, these efforts;

(4) this loss has crippled tribal efforts in the areas of economic and social development;

(5) this failure to complete the postsecondary schooling has led to economic loss to the tribes and the Federal Government which could be remedied by completion of the courses of study; and

(6) a program to identify students with a level of postsecondary completion short of the fulfillment of graduation requirements and to encourage them to complete these requirements, including provision of resources, will benefit the students, the tribes, and the Federal Government.

(b) PURPOSES.—The purposes of this part are—

(1) to establish a revolving loan program to be administered by a tribe or tribal organization for the purposes of increasing the number of college graduates available to work in tribal businesses, tribal government, and tribal services such as schools and hospitals;

(2) to conduct research to assess the situational and educational barriers to participation in postsecondary education; and

(3) to encourage development, through grants, of a model which provides, in addition to loans, transitional and follow-up services needed to encourage persistence in postsecondary education.

(25 U.S.C. 3332) Enacted July 23, 1992, P.L. 102–325, sec. 1342, 106 Stat. 809.

SEC. 1343. REVOLVING FUND.

(a) RECEIPT, INVESTMENT, AND ACCOUNTING.—

(1) TRIBES AND TRIBAL ORGANIZATIONS.—Funds received under a grant under this part or recovered under the provisions of section 1346(a)(2)(B) shall be identified and accounted for separately from any other tribal or Federal funds received from the Federal Government. All funds in this account shall be used for the purposes of this part.

(2) FINANCIAL PROCEDURES.—The Secretary of the Interior is responsible for establishing, by regulations, such requirements for receipt, investment and accounting of funds under subsection (b) as shall safeguard and financial interests of the Federal Government.

(b) INVESTMENT.—Funds provided under this part or recovered by the tribe or tribal organization under the provisions of section 1346(a)(2)(B) shall be—

(1) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(2) deposited only in accounts that are insured by an agency or instrumentality of the United States.

(c) TREATMENT OF INCOME.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds covered under this provision after such funds have been distributed to a tribe or tribal organization and before such funds are distributed for the purposes of making loans under this part shall be the property of the tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(25 U.S.C. 3333) Enacted July 23, 1992, P.L. 102–325, sec. 1343, 106 Stat. 809.

SEC. 1344. ELIGIBLE RECIPIENTS.

(a) TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary of the Interior (hereafter in this part referred to as the "Secretary") shall make grants, in accordance with the requirements of this part, to—

(1) tribes or multitribal organizations not serviced by current federally funded postsecondary institutions authorized for economic development grants; and

(2) tribes or multitribal organizations which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives.

(b) STUDENTS.—Any tribe or tribal organization that receives funds under subsection (a) shall make such funds available by loan, under terms and conditions consistent with section 1345, to Indian students who have successfully completed 30 hours of postsecond-

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ary education and who are eligible for readmission to a postsecondary institution.

(25 U.S.C. 3334) Enacted July 23, 1992, P.L. 102–325, sec. 1344, 106 Stat. 810.

SEC. 1345. TERMS OF LOANS.

(a) IN GENERAL.—A loan under this part to an Indian student shall—

(1) be subject to repayment over a period of not more than 5 years;

(2) not bear interest;

(3) be subject to forgiveness for services to the tribe in accordance with section 1346; and

(4) contain such additional terms and conditions as the initial loan agreement between the tribe or tribal organization and student may prescribe in writing.

(b) COST OF ATTENDANCE.—Calculation of the cost of attendance for the student must include all costs as determined by the tribe for the purposes of fulfilling the policy of this part.

(c) ADDITIONAL REQUIREMENTS.—Any student seeking a loan under this part shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other Federal law, and may not penalize students in determining eligibility for other funds.

(25 U.S.C. 3335) Enacted July 23, 1992, P.L. 102–325, sec. 1345, 106 Stat. 810.

SEC. 1346. SERVICE FULFILLMENT AND CONDITIONS; REPAYMENTS; WAIVERS.

(a) SERVICE AGREEMENT REQUIRED.—

(1) IN GENERAL.—Prior to receipt of a loan under this part, the tribe or tribal organization and the eligible recipient shall enter into a written agreement, subject to the conditions of this section, which commits the recipient—

(A) to perform, for each academic year for which the student receives assistance under this part one calendar year of service to the tribe or organization in an occupation related to the course of study pursued and an economic or social development plan developed by the tribe or tribal organization, commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay to the tribe or tribal organization the full amount of the loan, in monthly or quarterly installments over not more than 5 years.

(2) REPORT REQUIREMENT.—Funds recovered pursuant to paragraph (1)(B) shall be reported annually to the Secretary and invested in the account established under section 1343.

(b) SERVICE LIMITATIONS AND CONDITIONS.—The tribe or tribal organization shall agree that a student performing services under this part—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under this part—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this part, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2)(B) in the case of any student who partially completes the service obligation of that student under subsection (a)(2)(A).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under this part—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

(25 U.S.C. 3336) Enacted July 23, 1992, P.L. 102–325, sec. 1346, 106 Stat. 811.

SEC. 1347. ADMINISTRATION.

(a) REGULATIONS.—The Secretary shall establish, by regulation, an application process containing such requirements as the Secretary deems necessary for purposes of making grants to eligible entities under this part, providing that the Secretary shall take into account in reviewing applications under this part the number of students with partial completion identified by the applicant, relative to the total number of the members of tribe which would be benefited by provision of services under section 1346, and shall attempt to achieve geographic and demographic diversity in grants made under this part.

(b) GRANT PROCEDURES.—

(1) IN GENERAL.—Subject to the availability of funds and acceptable applications, the Secretary shall make 5 grants to tribes or tribal organizations for purposes of this part, each grant to be for a period of 4 years.

(2) ADMINISTRATIVE COSTS.—The amount of administrative costs associated with grants under this part shall be negotiated by the Secretary with the successful applicants and made a part of the grant agreement.

(c) DEFINITIONS.—For the purposes of this part, the terms "Indian", "Indian tribe", "Secretary", and "tribal organizations" have the same meanings given such terms in sections 4 (d), (e), (i), and (l), respectively, of the Indian Self Determination and Education Assistance Act (P.L. 93–638, 20 U.S.C. 450b).

(25 U.S.C. 3337) Enacted July 23, 1992, P.L. 102–325, sec. 1347, 106 Stat. 812.

SEC. 1348. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(25 U.S.C. 3338) Enacted July 23, 1992, P.L. 102–325, sec. 1348, 106 Stat. 812.

PART F—AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP

SEC. 1361. AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP.

(a) PROGRAM AUTHORIZED.—The Secretary of Education is authorized to make grants, in accordance with the provisions of this part, to federally recognized Indian tribes which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives. Priority shall be given to tribes which are not served by federally funded postsecondary institutions. The purpose of such grants is to enable such tribes to make scholarships available to tribal members to assist such members to pursue courses of study leading to an undergraduate or postbaccalaureate degree in order to provide professionally trained tribal members to support such economic development initiatives on Indian reservations.

(b) DESIGNATION.—A scholarship awarded under this part shall be referred to as an "American Indian Post-Secondary Economic Development Scholarship" (hereafter referred to in this part as "scholarship").

(25 U.S.C. 3351) Enacted July 23, 1992, P.L. 102–325, sec. 1361, 106 Stat. 813.

SEC. 1362. INDIAN SCHOLARSHIPS.

(a) SELECTION.—Each Indian tribe receiving a grant pursuant to this part for the purpose of providing scholarships shall select tribal members eligible to receive such scholarships. In determining grant recipients the Secretary of Education shall consider—

(1) geographic distribution of grants; and

(2) a tribal economic plan which demonstrates how individual recipients shall benefit the economic conditions of the tribe.

(b) CRITERIA.—Each Indian tribe, in consultation with the Secretary of Education, shall give preference to select, as those tribal members eligible to receive such scholarships, tribal members who have successfully completed at least 30 hours of postsecondary education and who are eligible for readmission to a postsecondary institution.

(25 U.S.C. 3352) Enacted July 23, 1992, P.L. 102–325, sec. 1362, 106 Stat. 813.

SEC. 1363. SCHOLARSHIP CONDITIONS.

(a) SCHOLARSHIP AGREEMENT.—Each tribal member receiving a scholarship under this part shall enter into an agreement, satisfactory to the Secretary of Education and the tribal government awarding such scholarship, under which such member agrees—

(1) to utilize the proceeds of such scholarship to pursue a course of study which meets the requirements of the educational institution in which the student is enrolled for an undergraduate or postbaccalaureate degree;

(2) upon the acquisition of such degree, to work, one year for each year of financial assistance under this part, on the Indian reservation in employment related to the course of study pursued which will support economic development initiatives on such reservation; and

(3) to maintain satisfactory academic progress, as determined in accordance with section 484(c) of the Higher Education Act of 1965, while in an undergraduate or postbaccalaureate program.

(b) REPAYMENTS.—Each tribal member found by the Secretary of Education to be in noncompliance with the agreement pursuant to subsection (a)(2) shall be required to repay—

(1) 100 percent of the total amount of scholarships awarded under this part if such tribal member does not work pursuant to such agreement; or

(2) a pro rata portion of the total amount of scholarships awarded under this part, as determined by the Secretary of Education, if such tribal member worked pursuant to such agreement but less than the time period required thereunder.

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—A federally recognized Indian tribe may, by formal action, waive the service agreement of a tribal member for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a tribal member to perform services under this part—

(A) shall be suspended for not more than 18 months if, at the request of the tribal member, the tribe determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the tribal member ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this part, the tribal member's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe annually, but may be continued indefinitely.

(d) DISCLAIMER.—No scholarship awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of the Higher Education Act of 1965.

(e) LIMITATION.—Any tribal member selected by an Indian tribe to receive a scholarship under this part shall be eligible to receive a $10,000 scholarship for each academic year of postsecondary education, except that no such member shall receive scholarship assistance under this part for more than 4 years of postsecondary education (including postbaccalaureate).

(f) COST OF ATTENDANCE.—Calculation of the cost of attendance for the tribal member shall include all costs as determined by the tribe for the purposes of fulfilling the policy of this part.

(g) ADDITIONAL REQUIREMENTS.—Any tribal member seeking a loan under this part shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other Federal law, and may not penalize tribal members in determining eligibility for other funds.

(h) APPLICATIONS FOR ASSISTANCE.—Any federally recognized Indian tribe desiring a grant under this part shall submit an application to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe the shortages on the reservation of such Indian tribe of professionally trained tribal members necessary to support economic development initiatives on such reservation;

(2) provide assurances that the Indian tribe will assist in employment placement on the reservation of tribal members receiving scholarship assistance under this part; and

(3) provide assurances that any tribal member performing work pursuant to this part will be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work.

(25 U.S.C. 3353) Enacted July 23, 1992, P.L. 102–325, sec. 1363, 106 Stat. 813.

SEC. 1364. REPORT.

Each federally recognized Indian tribe receiving a grant pursuant to this part shall annually report to the Secretary concerning the administration of such grant, including the identities of any individual receiving a scholarship pursuant to this part, and of any individual performing service pursuant to his or her commitment under this part.

(25 U.S.C. 3354) Enacted July 23, 1992, P.L. 102–325, sec. 1364, 106 Stat. 815.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(25 U.S.C. 3355) Enacted July 23, 1992, P.L. 102–325, sec. 1365, 106 Stat. 815.

PART G—AMERICAN INDIAN TEACHER TRAINING

SEC. 1371. AMERICAN INDIAN TEACHER TRAINING.

(a) INSTITUTIONAL SUPPORT.—

(1) IN GENERAL.—The Secretary of Education is authorized to award grants to tribally controlled postsecondary, vocational and technical institutions for the purposes of—

(A) developing teacher training programs;

(B) building articulation agreements between such institutions and other institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965; and

(C) basic strengthening of tribally controlled community colleges, as defined in section 2(a)(4) of the Tribally Controlled Community Colleges Act (P.L. 95–471, 25 U.S.C. 1801).

(2) USE OF GRANTS.—Grants awarded under this subsection shall be for the purpose of providing upper division course work, transfer programs, articulation agreements (similar to those under part D of title I of the Higher Education Act of 1965) with other accredited institutions, telecommunications programs or other mechanisms which directly support the training of American Indian teachers.

(b) STUDENT SUPPORT GRANTS.—

(1) IN GENERAL.—The Secretary of Education is authorized to award grants to institutions that have developed teacher training programs under subsection (a) for the purpose of providing financial and programmatic support to American Indian students seeking to participate in such institutions' teacher training programs.

(2) USE OF GRANTS.—Institutions receiving grants under this section shall require recipients of grants under this subsection to serve as teachers in an Indian community for 1 year for each year of scholarship support received.

(3) ELIGIBILITY.—Students eligible to receive support grants shall include those who have completed at least 30 hours of postsecondary education and who intend to pursue a 4-year degree.

(4) WORK REQUIREMENT.—Students who fail to satisfy the requirements of paragraph (2) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this part if the student worked for less than the required time period described in such paragraph.

(c) SCHOLARSHIPS.—

(1) AUTHORITY.—The Secretary of Education is authorized to provide scholarship assistance to American Indian students who seek to become teachers and who—

(A) agree to serve as teachers in an Indian community for 1 year for each year of scholarship support received, and

(B) have completed at least 30 hours of postsecondary education.

(2) WORK REQUIREMENT.—Students who fail to satisfy the requirements of paragraph (1) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this part if the student worked for less than the required time period described in paragraph (1)(B).

(d) DEFINITION.—For purposes of this part, the term "Indian" has the same meaning given such term in section 4(d) of the Indian Self Determination and Education Assistance Act (P.L. 93–638, 20 U.S.C. 450b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(25 U.S.C. 3371) Enacted July 23, 1992, P.L. 102–325, sec. 1371, 106 Stat. 815.

PART III—NATIONAL SCIENCE FOUNDATION

National Science Foundation Act of 1950

AN ACT To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Act of 1950."

(42 U.S.C. 1861, note) Enacted May 10, 1950, ch. 171, sec. 1, 64 Stat. 149.

ESTABLISHMENT OF NATIONAL SCIENCE FOUNDATION

SEC. 2. There is hereby established in the executive branch of the Government an independent agency to be known as the National Science Foundation (hereinafter referred to as the "Foundation"). The Foundation shall consist of a National Science Board (hereinafter referred to as the "Board") and a Director.

(42 U.S.C. 1861) Enacted May 10, 1950, ch. 171, sec. 2, 64 Stat. 149.

FUNCTIONS OF THE FOUNDATION

SEC. 3. (a) The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, social, and other sciences, and to initiate and support research fundamental to the engineering process and programs to strengthen engineering research potential and engineering education programs at all levels in the various fields of engineering, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific, engineering, and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 10, scholarships and graduate fellowships for study and research in the sciences or in engineering;

(3) to foster the interchange of scientific and engineering information among scientists and engineers in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific and engineering methods and technologies, primarily for research and education in the sciences and engineering;

(5) to evaluate the status and needs of the various sciences and fields of engineering as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research

groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups;

(6) to provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering and to provide a source of information for policy formulation by other agencies of the Federal Government; and

(7) to initiate and maintain a program for the determination of the total amount of money for scientific and engineering research, including money allocated for the construction of the facilities wherein such research is conducted, received by each educational institution and appropriate nonprofit organization in the United States, by grant, contract, or other arrangement from agencies of the Federal Government, and to report annually thereon to the President and the Congress.

(b) The foundation is authorized to initiate and support specific scientific and engineering activities in connection with matters relating to international cooperation, national security, and the effects of scientific and engineering applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 14(f), and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official.

(c) In addition to the authority contained in subsections (a) and (b), the Foundation is authorized to initiate and support scientific and engineering research, including applied research, at academic and other nonprofit institutions. When so directed by the President, the Foundation is further authorized to support, through other appropriate organizations, applied scientific research and engineering research relevant to national problems involving the public interest. In exercising the authority contained in this subsection, the Foundation may employ by grant or contract such consulting services as it deems necessary, and shall coordinate and correlate its activities with respect to any such problem with other agencies of the Federal Government undertaking similar programs in that field.

(d) The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of research and education in science and engineering.

(e) In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be an objective of the Foundation to strengthen research and education in the sciences and engineering, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

(f) The Foundation shall render an annual report to the President for submission on or before the 15th day of April of each year to the Congress, summarizing the activities of the Foundation and making such recommendations as it may deem appropriate. Such report shall include information as to the acquisition and disposition by the Foundation of any patents and patent rights.

(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.

(g)[1] In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.

(42 U.S.C. 1862) Enacted May 10, 1950, ch. 171, sec. 3, 64 Stat. 149; amended July 11, 1958, P.L. 85–510, sec. 1, 72 Stat. 353; amended September 8, 1959, P.L. 86–232, sec. 1, 73 Stat. 467; amended July 8, 1968, P.L. 90–407, sec. 1, 82 Stat. 360; amended August 10, 1972, P.L. 92–372, sec. 8, 86 Stat. 528; amended October 13, 1972, P.L. 92–484, sec. 10(b), 86 Stat. 802; amended April 21, 1976, P.L. 94–273, sec. 11(3), 90 Stat. 378; August 15, 1977, P.L. 95–99, sec. 14(a), 91 Stat. 835; amended Nov. 22, 1985, P.L. 99–159, sec. 110 (a)(1)–(11), 99 Stat. 890–891; amended Aug. 21, 1986, P.L. 99–383, sec. 3(a), 100 Stat. 814; amended October 23, 1992, P.L. 102–476, sec. 4, 106 Stat. 2299; amended November 4, 1992, P.L. 102–588, sec. 217, 106 Stat. 5117.

NATIONAL SCIENCE BOARD

SEC. 4. (a) The Board shall consist of twenty-four members to be appointed by the President, by and with the advice and consent of the Senate, and of the Director ex officio. In making nominations under this section, the President shall give due regard to equitable representation of scientists who are women or who represent minority groups. In addition to any powers and functions otherwise granted to it by this Act, the Board shall establish the policies of the Foundation.

(b) The Board shall have an Executive Committee as provided in section 7, and may delegate to it or to the Director or both such of the powers and functions granted to the Board by this Act as it deems appropriate.

(c) The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management or public affairs; (2) shall be selected solely on the basis of established records of distinguished service and (3) shall be so selected as to provide representation of the views of scientific and engineering leaders in all areas of the Nation. In making nominations under this section, the President shall give due regard to equitable representation of scientists and engineering who are women or who represent minority groups. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Academy of Engineering, the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, or by other scientific, engineering, or educational organizations.

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[1] Duplicate subsection (g) added by section 217 of Public Law 102–588.

(d) The term of office of each member of the Board shall be six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.

(e) The Board shall meet annually on the third Monday in May unless, prior to May 10 in any year, the Chairman has set the annual meeting for a day in May other than the third Monday and at such other times as the Chairman may determine, but he shall also call a meeting whenever one-third of the members so request in writing. A majority of the members of the Board shall constitute a quorum. Each member shall be given notice, not less than fifteen days prior to any meeting, of the call of such meeting.

(f) The election of the Chairman and Vice Chairman of the Board shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Board shall elect a member to fill such vacancy.

(g) The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than five professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director and assigned at the direction of the Board. The professional members of such staff may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 of such title relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS–18 of the General Schedule under section 5332 of such title, as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this Act. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 14(a).

(h) The Board is authorized to establish such special commissions as it may from time to time deem necessary for the purposes of this Act.

(i) The Board is also authorized to appoint from among its members such committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Board deems appropriate to assist it in exercising its powers and functions under this Act.

(j)(1) The Board shall render to the President, for submission to the Congress no later than January 15 of each even numbered year, a report on indicators of the state of science and engineering in the United States.

(2) The Board shall render to the President for submission to the Congress reports on specific, individual policy matters related to science and engineering and education in science and engineering, as the Board, the President, or the Congress determines the need for such reports.

(k) Portions of Board meetings in which the Board considers proposed Foundation budgets for a particular fiscal year may be closed to the public until the President's budget for that fiscal year has been submitted to the Congress.

(k)[1] Members of the Board shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (5 U.S.C. App. 92 Stat. 1836), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

(42 U.S.C. 1863) Enacted May 10, 1950, ch. 171, sec. 4, 64 Stat. 150; amended September 8, 1959, P.L. 86–232, sec. 2, 73 Stat. 467; amended June 11, 1960, P.L. 86–507, sec. 1(36), 74 Stat. 202; amended July 18, 1968, P.L. 90–407, sec. 2, 82 Stat. 361; amended April 21, 1976, P.L. 94–273, sec. 11(3), 90 Stat. 378; amended May 11, 1976, P.L. 94–282, sec. 503, 90 Stat. 473; amended May 11, 1976, P.L. 94–471, sec. 9, 90 Stat. 2057; August 15, 1977, P.L. 95–99, sec. 14(b), 91 Stat. 835; December 12, 1980, P.L. 96–516, sec. 21(a), 94 Stat. 3010; December 21, 1982, P.L. 97–375, sec. 214, 96 Stat. 1826; amended Nov. 22, 1985, P.L. 99–159, sec. 109(a) and sec. 110(a)(12), 99 Stat. 899 and 890–891, amended Oct. 31, 1988, P.L. 100–570, sec. 105 and 108, 102 Stat. 2868 and 2869.

DIRECTOR OF THE FOUNDATION

SEC. 5. (a) The Director of the Foundation (referred to in this Act as the "Director") shall be appointed by the President by and with the advice and consent of the Senate. Before any person is appointed as Director, the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code, and shall serve for a term of six years unless sooner removed by the President.

(b) Except as otherwise specifically provided in this Act (1) the Director shall exercise all of the authority granted to the Foundation by this Act (including any powers and functions which may be delegated to him by the Board), and (2) all actions taken by the Director pursuant to the provisions of this Act (or pursuant to the terms of a delegation from the Board) shall be final and binding upon the Foundation.

(c) The Director may from time to time make such provisions as he deems appropriate authorizing the performance by any other officer, agency, or employee of the Foundation of any of his functions under this Act, including functions delegated to him by the Board; except that the Director may not redelegate policy-making functions delegated to him by the Board.

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[1] So in law. Probably should have been designated as subsection "(l)".

(d) The formulation of programs in conformance with the policies of the Foundation shall be carried out by the Director in consultation with the Board.

(e)(1) The Director may make grants, contracts, and other arrangements pursuant to section 11(c) only with the prior approval of the Board, or under authority delegated by the Board, and subject to such conditions as the Board may specify.

(2) Any delegation of authority or imposition of conditions under the preceding sentence shall be effective only for such period of time, not exceeding two years, as the Board may specify, and shall be promptly published in the Federal Register and reported to the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives. On October 1 of each odd-numbered year the Board shall submit to the Congress a concise report which explains and justifies any actions taken by the Board under this subsection to delegate its authority or impose conditions within the preceding two years. The provisions of this subsection shall cease to be effective at the end of fiscal year 1989.

(f) The Director, in his capacity as ex officio member of the Board, shall, except with respect to compensation and tenure, be coordinate with the other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as Chairman or Vice Chairman of the Board.

(42 U.S.C. 1864) Enacted May 10, 1950, ch. 171, sec. 5, 64 Stat. 151; amended September 8, 1959, P.L. 86–232, sec. 3, 73 Stat. 467; amended July 8, 1968, P.L. 90–407, sec. 3, 82 Stat. 362; amended Nov. 22, 1985, P.L. 99–159, sec. 109(b), 99 Stat. 889.

DEPUTY DIRECTOR AND ASSISTANT DIRECTORS

SEC. 6. There shall be a Deputy Director of the Foundation (referred to in this Act as the "Deputy Director") who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Deputy Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. The Deputy Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and shall perform such duties and exercise such powers as the Director may prescribe. The Deputy Director shall act for, and exercise the powers of, the Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(42 U.S.C. 1864a) Enacted July 18, 1968, P.L. 90–407, sec. 4, 82 Stat. 363; amended Aug. 21, 1986, P.L. 99–383, sec. 7(b)(1), 100 Stat. 814.

EXECUTIVE COMMITTEE

SEC. 7. (a) There shall be an Executive Committee of the Board (referred to in this Act as the "Executive Committee"), which shall be composed of five members and shall exercise such powers and functions as may be delegated to it by the Board. Four of the members shall be elected as provided in subsection (b), and the Director ex officio shall be the fifth member and the chairman of the Executive Committee.

(b) At each of its annual meetings the Board shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person, other than the Director, who has been a member of the Executive Committee for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) Any person elected as a member of the Executive Committee to fill a vacancy occurring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(d) The Executive Committee shall render an annual report to the Board, and such other reports as it may deem necessary, summarizing its activities and making such recommendations as it may deem appropriate. Minority views and recommendations, if any, of members of the Executive Committee shall be included in such reports.

(42 U.S.C. 1865) Enacted May 10, 1950, ch. 171, sec. 6, 64 Stat. 151; amended September 8, 1959, P.L. 86-232, sec. 4, 73 Stat. 467; renumbered and amended July 18, 1968, P.L. 90-407, sec. 4, 5, 82 Stat. 363, 364.

DIVISIONS WITHIN THE FOUNDATION

SEC. 8. There shall be within the Foundation such Divisions as the Director, in consultation with the Board, may from time to time determine.

(42 U.S.C. 1866) Enacted May 10, 1950, ch. 171, sec. 7, 64 Stat. 152; renumbered and amended July 18, 1968, P.L. 90-407, sec. 4, 6, 82 Stat. 363, 364.

SPECIAL COMMISSIONS

SEC. 9. (a) Each special commission established under section 4(h) shall be appointed by the Board and shall consist of such members as the Board considers appropriate.

(b) Special commissions may be established to study and make recommendations to the Foundation on issues relating to research and education in science and engineering.

(42 U.S.C. 1868) Enacted May 10, 1950, ch. 171, sec. 9, 64 Stat. 152; amended July 18, 1968, P.L. 90-407, sec. 7, 82 Stat. 364; amended Nov. 22, 1985, P.L. 99-159, sec. 109(d), 99 Stat. 889.

SCHOLARSHIPS AND GRADUATE FELLOWSHIPS

SEC. 10. The Foundation is authorized to award scholarships and graduate fellowships for study and research in the sciences or in engineering at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time. Persons shall be selected for such scholarships and fellowships from among citizens, nationals or lawfully admitted permanent resident aliens of the United States, and such selections shall be made solely on the basis of ability; but in any case in which two or more applicants for scholarships or fellowships, as the case may be, are deemed by the Foundation to be possessed of substantially equal ability, and there are not sufficient scholarships or fellowships, as the case may be, available to grant one to each of such applicants, the available scholarship or scholarships, fellowship or fellowships shall be awarded to the applicants in such manner as will tend to result in a wide distribution of scholarships and fellowships throughout the United States. Nothing contained in this Act shall prohibit the Foundation from refusing or revoking a scholarship or fellowship award, in whole or in part, in the case of any applicant or recipient, if the Board is of the opinion that such award is not in the best interests of the United States.

(42 U.S.C. 1869) Enacted May 10, 1950, ch. 171, sec. 10, 64 Stat. 152; amended September 8, 1959, P.L. 86–233, sec. 5, 73 Stat. 468; amended June 29, 1960, P.L. 86–550, 74 Stat. 256; amended October 16, 1962, P.L. 87–835, sec. 2, 76 Stat. 1070; amended July 18, 1968, P.L. 90–407, sec. 8, 82 Stat. 364; amended Nov. 22, 1985, P.L. 99–159, sec. 110(a) 13, 99 Stat. 891; amended Aug. 21, 1986, P.L. 99–385, sec. 7(c), 100 Stat. 814; amended November 16, 1990, P.L. 101–589, sec. 302(c), 104 Stat. 2895.

GENERAL AUTHORITY OF FOUNDATION

SEC. 11. The Foundation shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this Act, including, but without being limited thereto, the authority—

(a) to prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization and personnel;

(b) to make such expenditures as may be necessary for administering the provisions of this Act;

(c) to enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific or engineering activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of State or Secretary of Defense, specific scientific or engineering activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. § 5);

(d) to make advance, progress, and other payments which relate to scientific or engineering activities without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(e) to acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this Act;

(f) to receive and use funds donated by others, if such funds are donated without restriction other than that they be used in furtherance of one or more of the general purposes of the Foundation;

(g) to publish or arrange for the publication of scientific and engineering information so as to further the full dissemination of information of scientific or engineering value consistent with the national interest, without regard to the provisions of section 87 by the Act of January 12, 1895 (28 Stat. 622), and section 11 of the Act of March 1, 1919 (40 Stat. 1270; 44 U.S.C. § 501);

(h) to accept and utilize the services of voluntary and uncompensated personnel and to provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

(i) to prescribe, with the approval of the Comptroller-General of the United States, the extent to which vouchers for funds expended under contracts for scientific or engineering research shall be subject to itemization or substantiation prior to payment, without regard to the limitations of other laws relating to the expenditure of public funds and accounting therefor;

(j) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct; and

(k) during the 5-year period beginning on the date of the enactment of the National Science Foundation Authorization Act for Fiscal Year 1987, to indemnify grantees, contractors, and subcontractors associated with the Ocean Drilling Program under the provisions of section 2354 of title 10, United States Code, with all approvals and certifications required by such indemnification made by the Director.

(42 U.S.C. 1870) Enacted May 10, 1950, ch. 171, sec. 11, 64 Stat. 153; amended September 8, 1959, P.L. 86–232, sec. 6, 73 Stat. 468; amended July 18, 1968, P.L. 90–407, sec. 9, 82 Stat. 365; amended Nov. 22, 1985, P.L. 99–159, sec. 110(a)(14), 99 Stat. 891; amended Aug. 21, 1986, P.L. 99–383, sec. 7(d), 100 Stat. 814.

PATENT RIGHTS

SEC. 12. Each contract or other arrangement executed pursuant to this Act which relates to scientific or engineering research shall contain provisions governing the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed: *Provided, however,* That nothing in this Act shall be construed to authorize the Foundation to enter into any contractual or other arrangement inconsistent with any provision of law affecting the issuance or use of patents.

(42 U.S.C. 1871) Enacted May 10, 1950, ch. 171, sec. 12, 64 Stat. 153; amended Nov. 22, 1985, P.L. 99–159, secs. 109(c) and 110(a)(15), 99 Stat. 889 and 891.

INTERNATIONAL COOPERATION AND COORDINATION WITH FOREIGN POLICY

SEC. 13. (a) The Foundation is hereby authorized to cooperate in any international scientific or engineering activities consistent with the purposes of this Act and to expend for such international scientific or engineering activities such sums within the limit of appropriated funds as the Foundation may deem desirable. The Director may defray the expenses of representatives of Government agencies and other organizations and of individual scientists or engineers to accredited international scientific or engineering congresses and meetings whenever he deems it necessary in the promotion of the objectives of this Act. In this connection, with the approval of the Secretary of State, the Foundation may undertake programs, granting fellowships to, or making other similar arrangements with, foreign nationals for study and research in the sciences or in engineering in the United States without regard to section 10 or the affidavit of allegiance to the United States required by section 15(d)(2) of this Act.

(b)(1) The authority to enter into contracts or other arrangements with organizations or individuals in foreign countries and with agencies of foreign countries, as provided in section 11(c), and the authority to cooperate in international scientific or engineering activities as provided in subsection (a) of this section, shall be exercised only with the approval of the Secretary of State, to the end that such authority shall be exercised in such manner as is consistent with the foreign policy objectives of the United States.

(2) If, in the exercise of the authority referred to in paragraph (1) of this subsection, negotiation with foreign countries or agencies thereof becomes necessary, such negotiation shall be carried on by the Secretary of State in consultation with the Director.

(42 U.S.C. 1872) Enacted May 10, 1950, ch. 171, sec. 13, 64 Stat. 154; amended September 8, 1959, P.L. 86–232, sec. 7, 73 Stat. 468; amended July 18, 1968, P.L. 90–407, sec. 10, 82 Stat. 365; amended Nov. 22, 1985, P.L. 99–159, sec. 110(a)(16), 99 Stat. 891.

MISCELLANEOUS PROVISIONS

SEC. 14. (a)(1) The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act. Except as provided in section 4(h), such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates: *Provided,* That the Director may, in accordance with such policies as the Board shall from time to time prescribe, employ such technical and professional personnel and fix their compensation, without regard to such provisions, as he may deem necessary for the discharge of the responsibilities of the Foundation under this Act. The members of the special commissions shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and

professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

(3) The Foundation may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Foundation. Notwithstanding any other provison of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.

(b) The Foundation shall not, itself, operate any laboratories or pilot plants.

(c) The members of the Board and the members of each special commission shall receive compensation for each day engaged in the business of the Foundation at a rate fixed by the Chairman but not exceeding the rate specified for the daily rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(d) Persons holding other offices in the executive branch of the Federal Government may serve as members of the special commissions, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such other offices.

(e) In making contracts or other arrangements for scientific or engineering research, the Foundation shall utilize appropriations available therefor in such manner as will in its discretion best realize the objectives of (1) having the work performed by organizations, agencies, and institutions, or individuals in the United States or foreign countries, including Government agencies of the United States and of foreign countries, qualified by training and experience to achieve the results desired, (2) strengthening the research staff of organizations, particularly nonprofit organizations, in the United States, (3) aiding institutions, agencies or organizations which, if aided, will advance scientific or engineering research, and (4) encouraging independent scientific research by individuals.

(f) Funds available to any department or agency of the Government for scientific or engineering research or education, or the provision of facilities therefor, shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Foundation for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Foundation for the purposes for which the transfer was made.

(g) For purposes of this Act, the term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(h) Notwithstanding any other provision of law, the authorization of any appropriation to the Foundation shall expire (unless an earlier expiration is specifically provided) at the close of the second fiscal year following the fiscal year for which the authorizaton was enacted, to the extent that such appropriation has not theretofore actually been made.

(i) Information supplied to the Foundation or a contractor of the Foundation by an industrial or commercial organization in survey forms, questionnaires, or similar instruments for the purposes of subsection (a)(5) or (a)(6) of section 3 may not be disclosed to the public unless such information has been transformed into statistical or aggregate formats that do not allow the identification of the supplier. The names of organizations supplying such information may not be disclosed to the public.

(j) Starting with fiscal year 1990, the Foundation shall submit to the Congress in each fiscal year, at the time of the release of the President's budget, a three-year budget estimate for the Foundation. The three-year budget shall include funding estimates for each major activity, including each scientific directorate, the United States Antarctic Program, the Science and Engineering Education Directorate, and the Program Development and Management activity.

(42 U.S.C. 1873) Enacted May 10, 1950, ch. 171, sec. 14, 64 Stat. 154; renumbered July 11, 1958, P.L. 85–510, sec. 2, 72 Stat. 353; amended September 8, 1959, P.L. 86–232, sec. 8, 73 Stat. 469; renumbered and amended July 18, 1968, P.L. 90–407, sec. 11(2), 12, 82 Stat. 365, 366; amended November 18, 1969, P.L. 91–120, sec. 3, 83 Stat. 203; amended August 15, 1977, P.L. 95–99, sec. 14(c), 92 Stat. 835; amended Nov. 22, 1985, P.L. 99–159, secs. 109(e)(1) and 110(a)(18), 99 Stat. 889 and 891; amended Oct. 31, 1988, P.L. 100–570, sec. 107, 102 Stat. 2869; amended November 16, 1990, P.L. 101–589, sec. 251, 104 Stat. 2894.

SECURITY PROVISIONS

SEC. 15. (a) The Foundation shall not support any research or development activity in the field of nuclear energy, nor shall it exercise any authoriity pursuant to section 11(e) in respect to that field, without first having obtained the concurrence of the Atomic Energy Commission that such activity will not adversely affect the common defense and security. To the extent that such activity involves restricted data as defined in the Atomic Energy Act of 1954 the provisions of that Act regarding the control of the dissemination of restricted data and the security clearance of those individuals to be given access to restricted data shall be applicable. Nothing in this Act shall supersede or modify any provision of the Atomic Energy Act of 1954.

(b)(1) In the case of scientific or engineering research activities under this Act in connection with matters relating to the national defense, with respect to which funds have been transferred to the Foundation from the Department of Defense in accordance with the provisions of section 14(f) of this Act, the Secretary of Defense shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as he deems necessary.

(2) In the case of scientific or engineering research activities under this Act in connection with matters relating to the national defense other than research activities referred to in paragraph (1) of this subsection, the Foundation shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as it deems necessary.

(3) Any agency of the Government exercising investigatory functions is hereby authorized to make such investigations and reports as may be requested by the Foundation in connection with the enforcement of security requirements and safeguards, including restrictions with respect to access to information and property, established under paragraph (1) or (2) of this subsection.

(42 U.S.C. 1874) Enacted May 10, 1950, ch. 171, sec. 15, 64 Stat. 156; amended April 5, 1952, ch. 159, sec. 1, 66 Stat. 43; renumbered July 11, 1958, P.L. 85–510, sec. 2, 72 Stat. 353; amended October 16, 1962, P.L. 87–835, sec. 1, 76 Stat. 1069; renumbered and amended July 18, 1968, P.L. 90–407, sec. 11(2), 13, 82 Stat. 365, 366; amended December 12, 1980, P.L. 96–516, sec. 21(b), 94 Stat. 3010; amended Nov. 22, 1985, P.L. 99–159, secs. 109(e)(2) and 110(a)(19), 99 Stat. 890 and 891; amended Oct. 31, 1988, P.L. 100–570, sec. 105(c), 102 Stat. 2868.

APPROPRIATIONS

SEC. 16. To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.

(42 U.S.C. 1875) Enacted May 10, 1950, ch. 171, sec. 16, 64 Stat. 156.

PART IV—MATHEMATICS, SCIENCE AND ENGINEERING

(Public Law 101–589, November 16, 1990)

AN ACT To promote excellence in American mathematics, science and engineering education; enhance the scientific and technical literacy of the American public; stimulate the professional development of scientists and engineers; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Excellence in Mathematics, Science and Engineering Education Act of 1990".

(20 U.S.C. 5304 note) Enacted November 16, 1990, P.L. 101–589, 104 Stat. 2881.

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TITLE I—FINDINGS AND OBJECTIVES

SEC. 101. FINDINGS AND OBJECTIVES.

(a) Findings.—The Congress finds that—

(1) science and mathematics are cornerstones of America's efforts to compete in the global marketplace and improve our standard of living and quality of life;

(2) international comparisons show American students are consistently behind their foreign counterparts in mathematics and science achievement;

(3) projections by the National Science Foundation estimate a shortage of 675,000 scientists and engineers by the year 2000;

(4) women and minorities are significantly underrepresented in the fields of mathematics, science and engineering;

(5) the achievement of universal scientific and mathematical literacy by all Americans is an essential goal of all efforts to strengthen American competitiveness;

(6) the achievement of scientific and mathematical literacy requires a strong, coordinated effort to strengthen the teaching of science and mathematics; and

(7) the Federal Government has a significant role in promoting the study of mathematics and science, by providing financial assistance to improve the general quality of programs for the study of mathematics and science, by acting as a source for information concerning successful projects and activities, by encouraging talented men and women to pursue scientific careers and by strengthening the mathematics and science educational opportunities available to women and minorities.

(b) NATIONAL OBJECTIVES.—The Congress declares that it shall be a national objective to—

(1) encourage American students to pursue careers in mathematics, science and engineering;

(2) improve the quality of teaching in mathematics and science made available to all Americans;

(3) have American students rank first in the world in mathematics and science;

(4) substantially increase the number of graduates with degrees in mathematics, science and engineering; and

(5) substantially increase the number of women and minorities pursuing careers in mathematics, science and engineering.

(20 U.S.C. 5301). Enacted November 16, 1990, P.L. 101–589, sec. 101, 104 Stat. 2882.

TITLE II—MATHEMATICS, SCIENCE AND TECHNOLOGY IMPROVEMENTS

PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION AMENDMENTS

See Volume II for the Dwight D. Eisenhower Mathematics and Science Education Act.

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PART B—INNOVATIVE TECHNOLOGIES

SEC. 221. EXPANDING THE USES OF INNOVATIVE TECHNOLOGIES FOR MATHEMATICS AND SCIENCE INSTRUCTION.

(a) COMPUTER TECHNOLOGIES.—

(1) PROGRAM AUTHORIZED.—The Director shall establish research programs on the use of computers and related technologies in basic mathematics, science, and technology instruction.

(2) ELIGIBLE APPLICANTS.—In carrying out the program under this subsection, the Director shall establish a merit review process to make awards on the basis of—

(A) the potential of the proposal to improve the effectiveness and productivity of basic mathematics and science education;

(B) the potential of the proposal to involve the classroom teacher in the design of the program and to provide teacher training for optimum effectiveness in the classroom; and

(C) the capability of the entity developing the innovative computer technology to provide broad and efficient dissemination of the technology to schools.

(3) USE OF AWARDS.—Funds awarded under this subsection may be used for—

(A) research and development of curriculum;

(B) development of computer software; and

(C) research and development of other promising technologies for educational applications as specified by the Director.

(b) DISTANCE LEARNING.—

(1) PROGRAM AUTHORIZED.—The Director shall establish programs to promote the use of interactive telecommunications linkages to provide mathematics and science education in the elementary and secondary classroom.

(2) ELIGIBLE APPLICANTS.—In carrying out the program under this subsection, the Director shall establish a merit review process to make awards to partnerships which may involve State educational agencies, local educational agencies, public television agencies, institutions of higher education, and other relevant entities, on the basis of—

(A) the potential of the proposal to improve the delivery of quality mathematics and science instruction to underserved rural and urban areas; and

(B) the potential of the proposal to provide teacher training programs for optimum effectiveness in the classroom.

(3) USE OF AWARDS.—Funds awarded under this subsection may be used for—

(A) the research and development of software and hardware technologies necessary to implement interstate and intrastate interactive linkages with several school districts;

(B) research on two-way audio and video interactive telecommunications and computer linkages designed to be used in conjunction with each other;

(C) research and development of curriculum;

(D) teacher training in the use of technologies developed under this section; and

(E) other appropriate telecommunications research projects that will improve mathematics and science education in underserved areas.

(c) SPECIAL RULE.—In carrying out the provisions of this section, the Director shall—

(1) pay particular attention to the needs of rural and urban areas which are underserved in fields of mathematics and science instruction or which have a high percentage of students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(2) give special consideration to proposals to extend or adapt for wider applications technologies, and associated educational materials, that the eligible applicant making the proposal has demonstrated to be effective in limited applications;

(3) ensure coordination between the National Science Foundation's programs for support of teacher training and programs developed under this section, with the objective of training teachers in the use of promising educational technologies; and

(4) consult, cooperate and coordinate with analogous programs and policies of other Federal agencies.

(d) MATCHING REQUIREMENT.—Awards shall be made under this section only to eligible applicants that will contribute resources, in cash or in kind, from non-Federal sources in an amount equal to 25 percent of the Federal award.

(e) COORDINATION.—The Director shall work with the Secretary to encourage use of technologies and educational materials developed under this section in Department of Education model programs established under section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act for instruction and training in the use of computers. In addition, the Director shall ensure that programs and activities developed under this section are reported to the Clearinghouse established under section 2012 of such Act for subsequent dissemination through the regional consortia established under subpart 2 of such Act.

(f) PLANNING ACTIVITIES.—The Office of Science and Technology Policy shall ensure that planning activities for education and human resource development and for high performance computing within the Federal Coordinating Council for Science, Engineering, and Technology include consideration of the use of national computer networks for educational purposes, including distance learning and dissemination of curricular materials.

(20 U.S.C. 5311) Enacted November 16, 1990, P.L. 101-589, sec. 221, 104 Stat. 2891.

PART C—SCIENCE-TECHNOLOGY CENTERS

SEC. 231. SCIENCE-TECHNOLOGY CENTERS.

(a) IN GENERAL.—

(1) AWARDS AUTHORIZED.—The Director is authorized to make awards to science-technology centers for—

(A) development of more effective, hands-on, interactive mathematics, science and technology programs and activities;

(B) replication or dissemination of effective programs and activities, giving special attention to the needs of female and minority children and economically disadvantaged areas; and

(C) development of new science-technology centers, including support for such centers to work with established science-technology centers to acquire proven educational programs.

(2) AWARD BASIS.—Funds awarded pursuant to this section shall be awarded on a competitive, merit review basis.

(3) CRITERIA.—Criteria for making awards under paragraph (1) may include—

(A) the potential for the educational program to have a significant impact on both formal and informal science education;

(B) the capability of the recipient institution to disseminate the material broadly;

(C) the extent of matching funds provided from non-Federal sources;

(D) the experience and qualifications of the staff of the recipient institution; and

(E) the overall excellence of the proposed program.

(b) SPECIAL CONSIDERATION.—In making awards pursuant to this section the Director shall give special consideration to programs designed primarily for elementary school-aged children.

(c) GEOGRAPHIC DISTRIBUTION.—In making awards pursuant to this section, the Director shall, to the extent practicable, ensure an equitable geographic distribution of such awards.

(d) USE OF CLEARINGHOUSE.—The Director shall report on such programs and activities developed under this section to the Clearinghouse established under section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act for subsequent dissemination through the regional consortia established under subpart 2 of such Act.

(e) AUTHORIZED ACTIVITIES.—Awards made under this section may be used for—

(1) scientific or technological exhibits developed for public display, either in a science-technology center or sponsored by a science-technology center but displayed in another facility;

(2) educational activities, such as curriculum development, teacher training programs, and student educational kits, developed for use by teachers for students; and

(3) other formal or informal science educational programs developed by science-technology centers.

(f) DEFINITIONS.—As used in this section—

(1) the term "informal science education" means those aspects of science education that occur outside the school classroom, usually voluntary, recreational, and interdisciplinary in nature, that are not directed by a specific curriculum;

(2) the term "science" means all physical, biological, and social sciences, mathematics, and engineering; and

(3) the term "science-technology center", which may include museums, planetariums, libraries and zoos, means a nonprofit institution open to the general public providing interactive exhibits, demonstrations, and informal science education designed to—

(A) further public understanding of science and technology; and

(B) illustrate how such science and technology interacts with society.

Such institutions may also be involved in formal educational activities.

(20 U.S.C. 5321) Enacted November 16, 1990, P.L. 101–589, sec. 231, 104 Stat. 2892.

PART D—GRANTS TO EDUCATIONAL AGENCIES FOR SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE EDUCATION

SEC. 241. SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE.

(a) IN GENERAL.—The Director, in consultation with the Secretary, is authorized to make awards to States or State educational agencies for projects that implement system-wide improvement in elementary or secondary school mathematics and science education.

(b) IMPROVEMENT COMPONENTS.—Each project for which an award is made pursuant to subsection (a) shall include the following components:

(1) increased student achievement in mathematics and science;

(2) improvements in organizational structure and decision-making;

(3) modifications in the provision and allocation of resources regarding mathematics and science instruction;

(4) improvement in the recruitment, retention and continuing professional development of teachers and other educators who instruct mathematics and science;

(5) improved mathematics and science curriculum content and learning goals; and

(6) use of other Federal funds including funds provided for the Dwight D. Eisenhower Mathematics and Science Education Act.

(c) SPECIAL RULE.—In making awards pursuant to subsection (a), the Director shall—

(1) to the extent practicable, ensure an equitable geographic distribution of such awards; and

(2) give priority to States or State educational agencies whose improvement plans place a strong emphasis on increas-

ing the academic achievement of females and minority students in mathematics and science.

(20 U.S.C. 5331) Enacted November 16, 1990, P.L. 101–589, sec. 241, 104 Stat. 2894.

PART E—TECHNICAL AMENDMENT

SEC. 251. TECHNICAL AMENDMENT.

[Amends section 14(f) of the National Science Foundation Act of 1950.]

SEC. 252. NATIONAL CENTER FOR EDUCATION STATISTICS.

[Amends the General Education Provisions Act by adding a new paragraph (4) to section 406(d).]

SEC. 253. AMENDMENT OF JAMES MADISON MEMORIAL FELLOWSHIP ACT.

[Amends Section 813(a)(4) of the James Madison Memorial Fellowship Act.]

TITLE III—HIGHER EDUCATION

PART A—GRADUATE FELLOWSHIPS AND TRAINEESHIPS

SEC. 301. STATEMENT OF PURPOSE.

It is the purpose of this part to avert the substantial shortage of American scientists and engineers projected to occur over the next 15 years by significantly increasing the number of graduate fellowships awarded by the National Science Foundation and to institute a program of graduate traineeships.

(20 U.S.C. 5341) Enacted November 16, 1990, P.L. 101–589, sec. 301, 104 Stat. 2895.

SEC. 302. GRADUATE FELLOWSHIPS.

(a) IN GENERAL.—The Director is authorized to increase the number of graduate fellowships awarded by the Foundation, so that, in fiscal year 1993 and each fiscal year thereafter, at least 1,200 fellowships are awarded annually.

(b) SPECIAL RULE.—In awarding fellowships pursuant to subsection (a), the Director shall ensure that a substantially increasing number of fellowships shall be awarded to women and minorities in fiscal year 1991 and in each succeeding fiscal year through fiscal year 2000.

(c) GRADUATE FELLOWSHIPS.—**[Amends section 10 of the National Science Foundation Act of 1950.]**

(20 U.S.C. 5342) Enacted November 16, 1990, P.L. 101–589, sec. 302, 104 Stat. 2895.

SEC. 303. GRADUATE TRAINEESHIPS.

(a) IN GENERAL.—The Director is authorized to carry out a competitive, merit-based program of making awards to institutions of higher education to enable such institutions to conduct traineeship programs which encourage promising students, especially women and minorities, to continue their education and research in mathematics, science and engineering.

(b) Special Rule.—In making awards pursuant to subsection (a), the Director shall, to the extent practicable, ensure—

(1) an equitable geographic distribution of such grants;

(2) that institutions of higher education receiving such awards demonstrate experience in, and a commitment to, educating and graduating a significant number of women and minority students in mathematics, science and engineering; and

(3) that special consideration is given to institutions of higher education that have demonstrated progress and an ongoing commitment to upgrading their capabilities to perform high quality research, and are not among the institutions currently receiving a large number of students with National Science Foundation graduate fellowships.

(20 U.S.C. 5343) Enacted November 16, 1990, P.L. 101–589, sec. 303, 104 Stat. 2896.

PART B—CENTERS OF EXCELLENCE

SEC. 311. CENTERS OF EXCELLENCE OF UNDERGRADUATE TEACHING.

(a) Establishment.—The Director shall establish a program of making awards to encourage institutions of higher education to improve, and to give greater attention to, undergraduate instruction in science, mathematics and engineering. Awards under this section shall be made on a competitive, merit review basis to faculty with a record of excellence in teaching using the criteria described in subsection (c). Awards under this section shall be for a 3-year period, and the amount of each award shall be comparable to those under the Presidential Young Investigator program.

(b) Use of Funds.—Awards made under this section shall be used to improve the quality of undergraduate instruction at the recipient institution. Awards made under this section may be used for such purposes as—

(1) development of innovative curriculum or teaching methods, including interdisciplinary courses and courses for nonscience majors;

(2) purchase of educational equipment for use by students and faculty;

(3) support for research and professional activities related to undergraduate education; and

(4) support of teaching fellows.

(c) Criteria.—Awards under this section shall be made on the basis of—

(1) the commitment of the institution to improve undergraduate education in science, mathematics and engineering and to assign appropriate importance to undergraduate instruction in determining faculty compensation and as a criterion for faculty promotion;

(2) the teaching ability and accomplishments of the faculty member applying for the award, including evidence that the applicant has remained current with research developments; and

(3) the impact that the award will have on improving the quality of undergraduate instruction.

(d) DESIGNATION.—Institutions receiving grants under this section shall be designated "Centers of Excellence for Undergraduate Teaching".

(20 U.S.C. 5351) Enacted November 16, 1990, P.L. 101-589, sec. 311, 104 Stat. 2896.

TITLE IV—WOMEN AND MINORITIES IN MATHEMATICS, SCIENCE AND ENGINEERING

SEC. 401. STATEMENT OF PURPOSE.

It is the purpose of this title to expand and enhance National Science Foundation program activities that are specifically focused on increasing the educational and professional participation of women and minorities in the fields of mathematics, science and engineering.

(20 U.S.C. 5361) Enacted November 16, 1990, P.L. 101-589, sec. 401, 104 Stat. 2897.

SEC. 402. DISTINGUISHED VISITING PROFESSORS.

The Director is authorized to make awards to institutions of higher education to enable such institutions to support distinguished women and minority faculty members in mathematics, science and engineering to enable such faculty members to serve as "Distinguished Visiting Professors" at academic institutions that do not have sufficient resources to attract and retain faculty members of such professional stature on a permanent basis.

(20 U.S.C. 5362) Enacted November 16, 1990, P.L. 101-589, sec. 402, 104 Stat. 2897.

SEC. 403. FACULTY AWARDS FOR WOMEN AND MINORITIES.

The Director is authorized to make awards to institutions of higher education, other than research universities, to enable such institutions to recruit and retain women and minority faculty members in the fields of mathematics, science and engineering, and to obtain equipment and facilities necessary for the research activities of such faculty members.

(20 U.S.C. 5363) Enacted November 16, 1990, P.L. 101-589, sec. 403, 104 Stat. 2897.

SEC. 404. ALLIANCES FOR MINORITY PARTICIPATION.

(a) IN GENERAL.—The Director is authorized to make awards to institutions of higher education to enable such institutions of higher education to establish or maintain alliances, partnerships, or other cooperative arrangements between institutions of higher education with predominately minority enrollments and institutions of higher education with high quality research programs in mathematics, science or engineering.

(b) SPECIAL RULE.—In making awards pursuant to this title, the Director shall, to the extent practicable, ensure—

(1) an equitable geographic distribution of such awards; and

(2) that institutions of higher education receiving such awards demonstrate experience in, and a commitment to, educating and graduating a significant number of women and minority students from programs in mathematics, science and engineering.

(20 U.S.C. 5364) Enacted November 16, 1990, P.L. 101–589, sec. 404, 104 Stat. 2897.

TITLE V—EDUCATION COORDINATION AND DEPARTMENT OF ENERGY PROGRAMS

SEC. 501. SCIENCE EDUCATION REPORT.

(a) REPORT REQUIRED.—The Director of the Office of Science and Technology Policy, through the Federal Coordinating Council on Science, Engineering, and Technology, shall prepare a report on science, mathematics, and engineering education to be submitted to Congress within 1 year after the date of enactment of this Act. The report shall include—

(1) a description of current Federal science, mathematics, and engineering education programs at all education levels;

(2) any specific statutory changes necessary to further assist the agencies' mathematics and science education goals; and

(3) a strategic plan for an interagency program to enhance science, mathematics, and engineering education, including—

(A) a statement of program goals;

(B) a description of implementation steps required to achieve such goals;

(C) a strategy for taking advantage of the strengths of Federal research and development facilities related to science, mathematics, and engineering education;

(D) provisions for outreach to teachers and others with direct access to students;

(E) a system for evaluating program effectiveness, including criteria for evaluation;

(F) criteria and procedures to facilitate and expedite either the loan or transfer of title to surplus equipment to schools, school districts, and colleges and universities;

(G) recommendations on how to enhance exchange of employees among agencies to share expertise in mathematics and science education; and

(H) mechanisms to coordinate the activities of the agencies which will implement the plan.

(b) PREPARATION AND UPDATING.—Preparation of the plan required by subsection (a)(3) shall, at a minimum, include representatives of the Departments of Energy and Education, and the National Science Foundation. In subsequent years, the plan required by subsection (a)(3) shall be updated and submitted to Congress annually at the time of the President's budget request and shall include the funding levels in that budget for each agency to carry out each agency's portion of the plan.

(20 U.S.C. 5371) Enacted November 16, 1990, P.L. 101–589, sec. 501, 104 Stat. 2898.

SEC. 502. GENERAL EDUCATION REPORT.

The Department of Defense, the Department of Energy, the Department of Agriculture, the Department of Labor, the Department of Health and Human Services, the Department of Transportation, the Department of Justice, the National Aeronautics and Space Administration, the Environmental Protection Agency, and the Department of Commerce shall each prepare and submit to the Secretary of Education, within 9 months of the enactment of this Act, a report on all educational activities supported, excluding activities described in section 501. The Secretary shall compile this information and report to Congress within 1 year after the date of enactment of this Act. The report shall include—

(1) a summary of current education programs at all levels; and

(2) any specific statutory changes necessary to further assist the agencies' education goals.

(20 U.S.C. 5372) Enacted November 16, 1990, P.L. 101–589, sec. 502, 104 Stat. 2898.

SEC. 503. DEPARTMENT OF ENERGY PROGRAMS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Energy is authorized to—

(A) provide paid administrative leave for employees of the Department of Energy or its research and development facilities who volunteer to interact with schools, colleges, universities, teachers, or students for the purpose of science, mathematics, and engineering education;

(B) establish a volunteer talent pool of scientists, mathematicians, and engineers who have retired from the Department of Energy or its research and development facilities to—

(i) serve as "Scientists in Residence" at schools and school districts for the purpose of assisting teachers with activities such as experiments, lectures, or materials;

(ii) serve as requested, as a science counselor to students; and

(iii) otherwise assist science, mathematics, and engineering classes;

(C) establish a Young Americans' Summer Science Camp Program to provide secondary school students with a hands-on science experience as well as exposure to working scientists and career counseling; and

(D) establish a program for mathematics and science teachers, to provide such teachers serving large numbers of disadvantaged students with new strategies for mathematics and science instruction.

(2) SPECIAL RULE.—In carrying out the provisions of paragraph (1)(B) the Secretary of Energy, wherever possible acting through the Department's research and development facilities,

shall identify and match schools and school districts with retired scientists, mathematicians, and engineers.

(b) FACILITIES; NON-FEDERAL FUNDS.—Education activities assisted under this section may be conducted through Department of Energy research and development facilities. The Secretary is authorized to accept non-Federal funds to finance education activities.

(c) LIMITATIONS.—

(1) NATIONAL DEFENSE PRODUCTION ACTIVITIES.—Nothing in this section shall apply to activities of the Department of Energy or its contractors that are funded as national defense production activities.

(2) SPECIAL RULE.—Nothing in this section shall be construed to affect mathematics, science, and engineering education programs administered through the Department of Energy other than the Office of Energy Research.

(d) TERMINATION PROVISION.—The provisions of this section shall not take effect if a substantially identical program is included in the National Defense Authorization Act for Fiscal Year 1991.

(e) DEFINITION.—For the purpose of this section, the term "research and development facilities" means, except as provided in subsection (c)(1), all Department of Energy single purpose and multipurpose National Laboratories and research and development facilities and programs, and any other facility or program operated by a contractor funded from the Office of Energy Research.

(20 U.S.C. 5373) Enacted November 16, 1990, P.L. 101-589, sec. 503, 104 Stat. 2899.

TITLE VI—SCIENCE SCHOLARSHIPS

PART A—NATIONAL SCIENCE SCHOLARS PROGRAM

SEC. 601. PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE.—It is the purpose of this part—

(1) to establish a National Science Scholars Program to recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering;

(2) to provide financial assistance to students under paragraph (1) to continue their postsecondary education in such fields of study at sustained high levels of performance;

(3) to contribute to strengthening the leadership of the United States in such fields;

(4) to strengthen the United States mathematics, science, and engineering base by offering opportunities to pursue postsecondary education in life, physical, and computer sciences, mathematics, and engineering;

(5) to encourage role models in scientific, mathematics, and engineering fields for young people;

(6) to strengthen the United States mathematics, scientific, and engineering potential by encouraging equal participation of women with men in mathematics, scientific, and engineering fields; and

(7) to attract talented students to teaching careers in mathematics and science in elementary and secondary schools.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years for awards to National Science Scholars.

(20 U.S.C. 5381) Enacted November 16, 1990, P.L. 101–589, sec. 601, 104 Stat. 2900; amended August 17, 1991, P.L. 102–103, sec. 314(a), 105 Stat. 508; amended July 23, 1992, P.L. 102–325, sec. 1556(a), 106 Stat. 840.

SEC. 602. SCHOLARSHIPS AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to carry out a program of awarding scholarships to students for the study of the physical, life, or computer sciences, mathematics, or engineering, who—

(1) are selected by the President;

(2) have demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering; and

(3) show promise of continued outstanding academic performance in such field of study.

(b) PERIOD OF AWARDS.—

(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of section 604(a) may receive a scholarship, for a period of 1 academic year, for the first year of undergraduate study at an institution of higher education.

(2) CONTINUATION AWARDS.—A student who satisfies the requirements of section 604(b) may receive additional scholarships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study. A student may receive additional scholarships for not more than 3 academic years of undergraduate study, except that, in the case of a student who is enrolled in an undergraduate course of study that requires attendance for 5 academic years, the student may receive additional scholarships for not more than 4 academic years of undergraduate study.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this part may attend any institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965.

(d) NATIONAL SCIENCE SCHOLARS.—Students awarded scholarships under this part shall be known as "National Science Scholars".

(20 U.S.C. 5382) Enacted November 16, 1990, P.L. 101–589, sec. 605, 104 Stat. 2900.

SEC. 603. SELECTION OF SCHOLARS.

(a) SELECTION CRITERIA FOR INITIAL AWARDS.—

(1) SELECTION CRITERIA.—The Director of the National Science Foundation shall develop and submit to the Secretary proposed criteria to be used in the selection of National Science Scholars for initial year awards under section 602(b)(1). Such criteria shall provide for the selection of such scholars on the basis of potential to successfully complete a postsecondary program in the physical, life, or computer sciences, mathematics, or engineering, and on the basis of motivation to pursue a ca-

reer in such fields. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities. The Director shall determine the proposed criteria for measuring the potential and motivation of nominees.

(2) PUBLICATION.—The Secretary and the Director shall agree to, and jointly publish in the Federal Register, appropriate selection criteria.

(b) SELECTION PROCESS FOR INITIAL AWARDS.—

(1) NOMINATING COMMITTEE.—Each State desiring to qualify its students for selection as a National Science Scholar shall establish a nominating committee. Such committee shall be appointed by the chief State school officer or by an existing grant agency or panel designated by such officer, and shall be approved by the Secretary. The nominating committee shall be a broad-based committee composed of educators, scientists, mathematicians, and engineers, who shall serve as volunteers without compensation.

(2) NOMINATIONS.—The nominating committee in each State shall submit to the President the nominations of at least four individuals from each congressional district in the State, at least half of whom are female. Such selections shall be ranked in order of priority.

(3) SELECTION.—The President, after consultation with the Secretary and the Director of the National Science Foundation, shall select two National Science Scholars for each academic year from each congressional district, at least one of whom shall be female.

(4) ANNOUNCEMENT AND AWARD OF SCHOLARSHIPS.—The selection process shall be completed, and the announcement of the selection of National Science Scholars shall be made by the President prior to January 1st of each fiscal year. The Secretary shall notify each Member of Congress of selections made from such Member's district and State before the public announcement by the President. Presentation of scholarships may be made in a public ceremony.

(5) CONGRESSIONAL DISTRICT.—For purposes of this subsection, the term "congressional district" includes the part or all of a State (within the meaning of section 1201(b) of the Higher Education Act of 1965) represented by a Member or Delegate of the House of Representatives, and includes the Commonwealth of the Northern Mariana Islands.

(c) CONTINUATION AWARDS.—The Secretary shall award additional scholarships under section 602(b)(2) to recipients of initial awards under section 602(b)(1) who the Secretary determines meet the requirements of section 604(b).

(d) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this part to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

(e) SPECIAL RULE.—The Director and the Secretary shall encourage the support and assistance of civic groups, the business community, professional associations, institutions of higher education, and others in providing scholarship assistance to National Science Scholarship finalists.

(20 U.S.C. 5383) Enacted November 16, 1990, P.L. 101–589, sec. 603, 104 Stat. 2901.

SEC. 604. ELIGIBILITY OF SCHOLARS.

(a) REQUIREMENTS FOR INITIAL AWARD.—To be eligible to receive a scholarship under section 602(b)(1), a student shall—

(1) be scheduled to graduate from a public or private secondary school, or to obtain the equivalent of a certificate of graduation (as recognized by the State in which the student resides), during the school year in which the award is made;

(2) be a citizen or national of the United States or the entities set forth in section 603(b)(5), or be an alien lawfully admitted to the United States for permanent residence;

(3) have demonstrated outstanding academic achievement in secondary school in physical, life, or computer sciences, mathematics, or engineering;

(4) have been accepted for enrollment at an institution of higher education as a full-time undergraduate student (as determined by the institution); and

(5) have declared a major in 1 of the physical, life, or computer sciences, mathematics, or engineering, or provided a written statement to the State of his or her intent to major in 1 of these fields of study, if it is the policy of the institution at which the student has been accepted for enrollment that students not declare a major until a later point in their course of study.

(b) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under section 602(b)(1) may receive a scholarship for a subsequent academic year of undergraduate education under section 602(b)(2) if the student—

(1) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(2) continues to major in, or provides a statement to the State as described in subsection (a)(5) of his or her continuing intent to major in, one of the physical, life, or computer sciences, mathematics, or engineering; and

(3) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(c) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(d) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this part shall be suspended in accordance with the regulations of the Secretary.

(e) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this part may be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(f) NOTIFICATION OF SECONDARY SCHOOLS.—The Secretary shall notify all public and private secondary schools and all institutions of higher education in each State annually of the availability of scholarships under this part.

(20 U.S.C. 5384) Enacted November 16, 1990, P.L. 101–589, sec. 604, 104 Stat. 2902.

SEC. 605. SCHOLARSHIP AMOUNT.

(a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this part for any academic year shall be $5,000.

(b) RELATION TO COST OF ATTENDANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this part shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this part shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this part, the amount paid to each student shall be reduced proportionately.

(20 U.S.C. 5385) Enacted November 16, 1990, P.L. 101–589, sec. , 104 Stat. 28 .

SEC. 606. SUMMER EMPLOYMENT OPPORTUNITIES FOR SCHOLARS.

(a) PRIORITY FOR SUMMER EMPLOYMENT.—To the extent that they are otherwise qualified, students receiving scholarships under this part shall be given priority consideration for federally financed summer employment in federally funded research and development centers, that, to the maximum extent practicable, complements and reinforces the educational program of these students.

(b) FEDERAL AGENCY COOPERATION.—Federal agencies shall cooperate fully with the Secretary and participate actively in providing appropriate summer employment opportunities for such students.

(20 U.S.C. 5386) Enacted November 16, 1990, P.L. 101–589, sec. 606, 104 Stat. 2903.

PART B—ROBERT NOYCE SCHOLARSHIPS

SEC. 611. ROBERT NOYCE SCHOLARSHIPS.

(a) PROGRAM AUTHORIZED.—There is established a scholarship program for students in a baccalaureate degree program in physical, life, or computer sciences, mathematics, or engineering who are willing to commit themselves to teaching elementary or secondary school mathematics or science.

(b) PERIOD OF AWARDS.—

(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of subsection (g)(1) may receive a scholarship, for

a period of 1 academic year of undergraduate study at an institution of higher education.

(2) CONTINUATION AWARDS.—

(A) FIRST CONTINUATION AWARD.—A student who satisfies the requirements of subsection (g)(2) may receive an additional scholarship, awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study.

(B) SECOND CONTINUATION AWARD.—An additional period of scholarship support, not to exceed 1 year, shall be available to recipients of scholarships under subsection (a) who have completed requirements for the baccalaureate degree but require additional education courses in order to obtain certification to teach.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this section may attend any institution of higher education.

(d) DESIGNATION.—The individuals awarded scholarships under subsection (a) shall be referred to as the "Robert Noyce Mathematics and Science Teacher Corps".

(e) SELECTION.—

(1) SELECTION PROCESS FOR INITIAL AWARDS.—

(A) SELECTION CRITERIA.—The Director shall develop and submit to the Secretary proposed application procedures and criteria to be used in the selection of nominees under this section. Such criteria shall provide for the selection of such nominees on the basis of academic merit and demonstrated accomplishment in physical, life, or computer science, mathematics, or engineering, and on the basis of motivation to pursue a career in science, mathematics, or engineering. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities.

(B) PUBLICATION.—The Secretary and the Director shall agree to, and jointly publish in the Federal Register, appropriate selection criteria.

(C) MERIT REVIEW PANEL.—Award recipients shall be nominated from among applicants by a merit review panel composed of 8 individuals, 4 of whom shall be appointed by the Director and 4 of whom shall be appointed by the Secretary. Members of the panel shall not be employees of the United States and shall serve as volunteers without compensation. Nominees shall be selected on the basis of selection criteria, which shall be developed and published in accordance with subparagraphs (A) and (B). The panel shall rank the nominees in order of priority.

(D) AWARDING OF SCHOLARSHIPS.—The panel shall submit its nominees to the President, who shall, after consultation with the Director and the Secretary, award not more than 500 scholarships under subsection (a).

(2) CONTINUATION AWARDS.—The Secretary shall award additional scholarships to recipients of initial awards under

this section who the Secretary determines meet the requirements of subsection (g)(2) or (b)(2)(B).

(f) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this section to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student unless the student is enrolled at an institution of higher education.

(g) ELIGIBILITY.—

(1) INITIAL ELIGIBILITY.—Only individuals who are—

(A) citizens or nationals of the United States, or who are aliens lawfully admitted to the United States for permanent residence;

(B) majoring in the physical, life, or computer sciences, mathematics, or engineering;

(C) in the last 2 years of a baccalaureate degree program; and

(D) enrolled in an institution of higher education as a full-time undergraduate student (as determined by the institution of higher education),

shall be eligible for awards under this section.

(2) REQUIREMENTS FOR FIRST CONTINUATION AWARDS.—A student who has received a scholarship under this section may receive a first continuation award under subsection (b)(2)(A) for a subsequent academic year of undergraduate education if the student—

(A) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(B) continues to major in one of the physical, life, or computer sciences, mathematics, or engineering; and

(C) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(h) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(i) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this section shall be suspended in accordance with the regulations of the Secretary.

(j) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this section could be reinstated if the recipient seeks to re-enter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(k) NOTIFICATION OF SCHOOLS.—The Secretary shall notify all institutions of higher education in the United States annually of the availability of scholarships under this section.

(l) SCHOLARSHIP AMOUNT.—

(1) AMOUNT OF AWARD.—Except as provided in paragraph (2), the amount of a scholarship awarded under this section for any academic year shall be $5,000.

(2) RELATION TO COST OF ATTENDANCE.—Notwithstanding paragraph (1), the amount of a scholarship awarded under this section shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this section shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(m) SERVICE REQUIREMENT.—

(1) TEACHING OBLIGATION.—Each recipient of an award under this section shall, as a condition of the receipt of such award, agree to complete, within 6 years after graduation from the baccalaureate degree program for which the award was made or within 6 years after completion of the additional period of scholarship support, if applicable, at least 2 years of service as an elementary or secondary mathematics or science teacher for each year of scholarship support under this section, except that such requirement shall not exceed a total of 4 years. Service required under this paragraph shall be performed at a school receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.).

(2) REPAYMENT ALTERNATIVE.—As part of the agreement required under paragraph (1), each recipient shall agree, in the event of failure to complete the service obligation described in paragraph (1), to repay an amount equal to—

(A) the total amount of awards received by such individual under this section; plus

(B) the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

except that such payment shall be reduced, for each year of service that the individual has successfully completed, by a fraction equal to 1 divided by the number of years of service the student is obligated to perform. Such repayment shall be made within 1 year after the recipient has ceased to perform the service obligation described in paragraph (1).

(3) EXCEPTIONS.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section in the same manner as is permitted under section 558 of the Higher Education Act of 1965 with respect to scholarships under subpart 1 of part D of title V of the Higher Education Act of 1965, except that pregnancy, child-rearing, or comparable family responsibilities shall also be grounds for deferral.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation, for transfer to the Department of Education, $2,500,000 for fiscal year 1991,

$5,000,000 for fiscal year 1992, and $7,500,000 for fiscal year 1993, to carry out the provisions of this part.

(20 U.S.C. 5401) Enacted November 16, 1990, P.L. 101–589, sec. 611, 104 Stat. 2904.

PART C—NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY

SEC. 621. NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY.

(a) ESTABLISHMENT OF ACADEMY.—The Secretary shall establish a National Academy of Science, Space, and Technology for the instruction and preparation of selected individuals for service in a science, mathematics, or engineering related capacity in the employ of the United States or a United States corporation.

(b) ADVISORY BOARD.—

(1) MEMBERSHIP.—The Secretary, after consultation with the Director, shall appoint an Advisory Board for the Academy consisting of a broadly representative group of scientists, engineers, educators, and businessmen representing high-technology industries.

(2) FUNCTION.—The Advisory Board shall develop an exam for secondary students testing knowledge in science, mathematics, and engineering, or shall select an exam from among existing national exams, and shall annually administer such exam.

(c) RESULTS OF EXAM.—The Advisory Board shall annually certify the top 10 scorers in each congressional district on the exam developed or selected under subsection (b)(2), and award to the top scorer in each district a scholarship under this section.

(d) SCHOLARSHIPS AUTHORIZED.—(1) The Academy shall establish a scholarship program for students to pursue the baccalaureate degree in fields of science, mathematics, or engineering who are willing to commit themselves to service described in subsection (l).

(2) A student who satisfies the requirements of subsection (f)(1) may receive a scholarship for a period of 1 academic year of undergraduate study at a Member Institute.

(3) A student who satisfies the requirements of subsection (f)(2) may receive additional scholarships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study to a maximum of 3 such additional awards.

(4) The individuals awarded scholarships under this section shall be referred to as the "Science, Space, and Technology Corps".

(5) An individual awarded a scholarship under this section may attend any institution of higher education that offers the baccalaureate degree in science, mathematics, or engineering. Such institutions shall be designated as Member Institutes of the Academy.

(e) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this section to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student unless the student is enrolled at an institution of higher education.

(f) ELIGIBILITY.—

(1) INITIAL ELIGIBILITY.—Only individuals who are—

(A) citizens or nationals of the United States, or who are aliens lawfully admitted to the United States for permanent residence;

(B) majoring in the physical, life, or computer sciences, mathematics, or engineering; and

(C) enrolled in an institution of higher education as a full-time undergraduate student (as determined by the institution of higher education),

shall be eligible for awards under this section.

(2) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under this section may receive a continuation award under subsection (d)(3) for a subsequent academic year of undergraduate education if the student—

(A) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(B) continues to major in one of the physical, life, or computer sciences, mathematics, or engineering; and

(C) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(g) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(h) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this section shall be suspended in accordance with the regulations of the Secretary.

(i) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this section may be reinstated if the recipient seeks to re-enter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(j) NOTIFICATION OF SCHOOLS.—The Secretary shall notify all institutions of higher education in the United States annually of the availability of scholarships under this section.

(k) SCHOLARSHIP AMOUNT.—

(1) AMOUNT OF AWARD.—Except as provided in paragraphs (2) and (3), the amount of a scholarship awarded under this section for any academic year shall be $5,000.

(2) RELATION TO COST OF ATTENDANCE.—Notwithstanding paragraph (1), the amount of a scholarship awarded under this section shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this section shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligi-

bility of the student for those other forms of Federal student financial assistance.

(3) Adjustments for insufficient appropriations.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this section, the amount paid to each student shall be reduced proportionately.

(l) Service Requirement.—

(1) Science, space, and technology scholarships.—Each recipient of an award under this section shall, as a condition of the receipt of such award, agree to complete four years of—

(A) service in a physical, life, or computer science, mathematics, or engineering related capacity in the employ of the United States or any corporation or other entity, organized under the laws of the United States or of a State of the United States, at least 50 percent of which is owned by United States nationals, and which is engaged in scientific or engineering research or endeavor;

(B) postgraduate education in physical, life, or computer science, mathematics, or engineering at an institution of higher education; or

(C) a combination of service and education described under subparagraphs (A) and (B).

(2) Repayment obligation.—As part of the agreement required under paragraph (1), each recipient shall agree, in the event of failure to complete the service obligation described in paragraph (1), to repay an amount equal to—

(A) the total amount of awards received by such individual under this section; plus

(B) the interest on such amounts which would be payable if at the time the amounts were received the amounts were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

Such repayment shall be made within 1 year after the recipient has ceased to perform the service obligation described in paragraph (1).

(3) Exceptions.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section in the same manner as is permitted under section 558 of the Higher Education Act of 1965 with respect to scholarships under subpart 1 of part D of title V of the Higher Education Act of 1965, except that pregnancy, child-rearing, or comparable family responsibilities shall also be grounds for deferral.

(m) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $2,200,000 for each of the fiscal years 1992 and 1993.[1]

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[1] The amendment made by section 1557(b)(10) of Public Law 102–325 (106 Stat. 841) cannot be executed. An amendment was previously made by Public Law 102–103 (105 Stat. 508). The amendment made by Public Law 102–325 states as follows:

(10) in subsection (m), as so redesignated by paragraph (8) of this section, by striking "$2,200,000 for fiscal year 1991" and inserting in lieu thereof "$2,200,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years".

(20 U.S.C. 5411) Enacted November 16, 1990, P.L. 101–589, sec. 621, 104 Stat. 2907; amended August 17, 1991, P.L. 102–103, sec. 314(b), 105 Stat. 508; amended July 23, 1992, P.L. 102–325, sec. 1556(b), 106 Stat. 840.

PART D—ADDITIIONAL PROVISIONS

SEC. 631. EFFECT OF CERTAIN CONTROLLED SUBSTANCE AND FELONY CONVICTIONS.

(a) GENERAL RULE.—Except as provided in subsection (b), or by a court under the authority of section 5301 of the Anti-Drug Abuse Act of 1988 (102 Stat. 4310), if any person is convicted under Federal or State law of the illegal use, possession, or distribution of a controlled substance (as such term is defined in the Controlled Substances Act), or of any crime which is a felony under Federal law or for an act which, if committed in a Federal jurisdiction, would be a felony under Federal law, and such crime was committed during a period in which such person received an award under this title, such person shall not be eligible to receive any further such awards, and shall be liable to the United States for the repayment, within 1 year after such conviction, of all amounts received pursuant to such awards, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as of the time of such conviction, as determined by the Treasurer of the United States.

(b) EXEMPTION.—A person subject to the provisions of subsection (a) may be exempted from those provisions in whole or in part if—

(1) that person, within 90 days of a conviction described in subsection (a), petitions the Secretary of Education for a good cause exemption from subsection (a); and

(2) the Secretary of Education approves the petition.

(20 U.S.C. 5421) Enacted November 16, 1990, P.L. 101–589, sec. 631, 104 Stat. 2910.

SEC. 632. REPORT.

The National Science Foundation shall prepare and submit to the Congress no later than 1 year after the date of enactment of this Act a report examining current efforts to improve the quality of elementary and secondary mathematics and science education and career potential for the underprivileged through joint efforts of business, school districts, and institutions of higher education, and recommending ways the Federal Government may encourage such efforts. The report shall include, to the extent possible, a comprehensive list of existing efforts, an assessment of what factors have made some such efforts more successful than others, and a review of the extent to which such efforts have drawn on Federal programs.

(20 U.S.C. 5422) Enacted November 16, 1990, P.L. 101–589, sec. 632, 104 Stat. 2910.

TITLE VII—GENERAL PROVISIONS AND AUTHORIZATION OF APPROPRIATIONS

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

From the amounts authorized to be appropriated to the National Science Foundation pursuant to the National Science Foundation Authorization Act of 1988, there are authorized to be appropriated—

(1) in addition to any amount obligated in fiscal year 1990 for programs on applications of advanced technology within the Education and Human Resources Directorate—

(A) $10,000,000 for fiscal year 1991 to carry out the provisions of section 221, of which $5,000,000 shall be available to carry out the provisions of subsection (a) of such section and $5,000,000 shall be available to carry out the provisions of subsection (b) of such section;

(B) $11,000,000 for fiscal year 1992 to carry out the provisions of section 221, of which $5,500,000 shall be available to carry out the provisions of subsection (a) of such section and $5,500,000 shall be available to carry out the provisions of subsection (b) of such section; and

(C) $12,500,000 for fiscal year 1993 to carry out the provisions of section 221, of which $6,250,000 shall be available to carry out the provisions of subsection (a) of such section and $6,250,000 shall be available to carry out the provisions of subsection (b) of such section;

(2) in addition to any amounts obligated in fiscal year 1990 for informal science education programs, $15,000,000 for fiscal year 1991, $17,000,000 for fiscal year 1992, and $19,400,000 for fiscal year 1993 to carry out the provisions of section 231;

(3) in addition to any amounts obligated in fiscal year 1990 for statewide education programs, $17,000,000 for fiscal year 1991, $19,400,000 for fiscal year 1992, and $22,100,000 for fiscal year 1993 to carry out the provisions of section 241;

(4) in addition to any amounts obligated in fiscal year 1990 for undergraduate education programs, $16,000,000 for fiscal year 1991, $18,200,000 for fiscal year 1992, and $20,700,000 for fiscal year 1993 to carry out the provisions of section 311;

(5) $37,900,000 for fiscal year 1991, $60,600,000 for fiscal year 1992, and $67,800,000 for fiscal year 1993 to support of graduate fellowships, including expansion of the number of graduate fellowships pursuant to the provisions of section 302;

(6) $10,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, and $30,000,000 for fiscal year 1993 to carry out the provisions of section 303; and

(7) in addition to any amounts obligated in fiscal year 1990 for programs to increase participation by women and minorities in careers in science, mathematics and engineering, $17,000,000 for fiscal year 1991, $19,400,000 for fiscal year

1992, and $22,000,000 for fiscal year 1993 to carry out the provisions of title IV.

(20 U.S.C. 5431) Enacted November 16, 1990, P.L. 101-589, sec. 701, 104 Stat. 2910.

PART B—DEFINITIONS

SEC. 711. DEFINITIONS.

As used in this Act—

(1) the term "consortium", refers to a combination of school districts, colleges, universities, other formal or informal educational entities, State and local governments, professional organizations, community groups, businesses and industries, or any combination thereof;

(2) the term "Director", unless otherwise specified, shall refer to the Director of the National Science Foundation;

(3) the term "elementary school" has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965;

(4) the term "Foundation" refers to the National Science Foundation;

(5) the term "institution of higher education" has the same meaning given that term in section 1201(a) of the Higher Education Act of 1965;

(6) the term "local educational agency" has the same meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965;

(7) the term "minorities" refers to members of those racial and ethnic groups underrepresented in mathematics, science and engineering, including American Indians, Black Americans, Hispanic Americans, Native Alaskans, or Native Pacific Islanders;

(8) the terms "scholarship" and "fellowship" refers to a financial award made to a student which enables a student to pursue a desired course of study at an institution of higher education;

(9) the term "secondary school" has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965;

(10) the term "Secretary", unless otherwise specified, refers to the Secretary of the Department of Education;

(11) the term "State educational agency" has the same meaning given that term in section 1471(23) of the Elementary and Secondary Education Act of 1965; and

(12) the term "traineeship" means a form of financial support provided to an institution of higher education to—

(A) be used to provide stipends to graduate students selected by such institution; and

(B) help defray educational costs of educating such graduate students.

(20 U.S.C. 5441) Enacted November 16, 1990, P.L. 101-589, sec. 711, 104 Stat. 2911.

PART C—MISCELLANEOUS PROVISIONS

SEC. 721. STUDENT ASSISTANCE GENERAL PROVISIONS.

The Secretary shall extend until January 1, 1991 the public comment period on the proposed regulations modifying part 668 of title 34, Code of Federal Regulations, concerning clock and credit hour conversion.

SEC. 722. PUBLIC LAW 81-874.

(a) FEDERAL CONTRIBUTIONS.—[Amends various sections of Public Law 81–874.]

SEC. 723. TECHNICAL AMENDMENT.

[Amends section 312(5) of the Adult Education Act.]

PART D—EFFECTIVE DATE

SEC. 731. EFFECTIVE DATE.

The provisions of this Act shall take effect on October 1, 1990, or the date of enactment of this Act, whichever is later.

PART V—ASSISTANCE TO SPECIFIED INSTITUTIONS

Act of March 2, 1867

AN ACT To incorporate the Howard University in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be established, and is hereby established, in the District of Columbia, a university for the education of youth in the liberal arts and sciences, under the name, style, and title of "The Howard University."

SEC. 2. *And be it further enacted,* That Samuel C. Pomeroy, Charles B. Boynton, Oliver O. Howard, Burton C. Cook, Charles H. Howard, James B. Hutchinson, Henry A. Brewster, Benjamin F. Morris, Danforth B. Nichols, William G. Finney, Roswell H. Stevens, E. M. Cushman, Hiram Barber, E. W. Robinson, W. F. Bascom, J. B. Johnson, and Silas L. Loomis, be, and they are hereby, declared to be a body politic and corporate, with perpetual succession in deed or in law to all intents and purposes whatsoever, by the name, style, and title of "The Howard University," by which name and title they and their successors shall be competent, at law and in equity, to take to themselves and their successors, for the use of said university, any estate whatsoever in any messuage, lands, tenements, hereditaments, goods, chattels, moneys, and other effects, by gift, devise, grant, donation, bargain, sale, conveyance, assurance, or will; and the same to grant, bargain, sell, transfer, assign, convey, assure, devise, declare, to use and farm let, and to place out on interest, for the use of said university, in such manner as to them, or a majority of them, shall be deemed most beneficial to said institution; and to receive the same, their rents, issues, and profits, income and interest, and to apply the same for the proper use and benefit of said university; and by the same name to sue and be sued, to implead and be imple[a]ded, in any courts of law and equity, in all manner of suits, actions, and proceedings whatsoever, and generally by and in the same name to do and transact all and every the business touching or concerning the premises: *Provided,* That the same do not exceed the value of fifty thousand dollars net annual income, over and above and exclusive of the receipts for the education and support of the students of said university.

SEC. 3. *And be it further enacted,* That the first meeting of said corporators shall be holden at the time and place at which a majority of the persons herein above named shall assemble for that purpose; and six days' notice shall be given each of said corporators, at which meeting said corporators may enact by-laws not inconsistent with the laws of the United States regulating the government of the corporation.

SEC. 4. *And be it further enacted,* That the government of the university shall be vested in a board of trustees, of not less than thirteen members, who shall be elected by the corporators at their first meeting. Said board of trustees shall have perpetual succession in deed or in law, and in them shall be vested the power hereinbefore granted to the corporation. They shall adopt a common seal, which they may alter at pleasure, under and by which all deeds, diplomas, and acts of the university shall pass and be authenticated. They shall elect a president, a secretary, and a treasurer. The treasurer shall give such bonds as the board of trustees may direct. The said board shall also appoint the professors and tutors, prescribing the number, and determining the amount of their respective salaries. They shall also appoint such other officers, agents, or employees, as the wants of the university may from time to time demand, in all cases fixing their compensation. All meetings of said board may be called in such manner as the trustees shall prescribe, and nine of them so assembled shall constitute a quorum to do business, and a less number may adjourn from time to time.

SEC. 5. *And be it further enacted,* That the university shall consist of the following departments, and such others as the board of trustees may establish: First, normal; second, collegiate; third, theological; fourth, law; fifth, medicine; sixth, agriculture.

SEC. 6. *And be it further enacted,* That the immediate government of the several departments, subject to the control of the trustees, shall be entrusted to their respective faculties, but the trustees shall regulate the course of instruction, prescribe, with the advice of the professors, the necessary text-books, confer such degrees, and grant such diplomas as are usually conferred and granted in other universities.

SEC. 7. *And be it further enacted,* That the board of trustees shall have power to remove any professor or tutor or other officers connected with the institution, when, in their judgment, the interest of the university shall require it.

SEC. 8. *Annual appropriations are hereby authorized to aid in the construction, development,* improvement, endowment, and maintenance of the university, no part of which shall be used for religious instruction. The university shall at all times be open to inspection by the Bureau of Education and shall be inspected by the said bureau at least once each year. An annual report making a full exhibit of the affairs of the university shall be presented to Congress each year in the report of the Bureau of Education. (20 U.S.C. 123)

SEC. 9. *And be it further enacted,* That no misnomer of the said corporation shall defeat or annul any donation, gift, grant, devise, or bequest to or from the said corporation.

SEC. 10. *And be it further enacted,* That the said corporation shall not employ its funds or income, or any part thereof in banking operations or for any purpose or object other than those expressed in the first section of this act; and that nothing in this act contained shall be so construed as to prevent Congress from altering, amending, or repealing the same.

Howard University Endowment Act

TITLE II—HOWARD UNIVERSITY ENDOWMENT

SHORT TITLE

SEC. 201. This title may be cited as the "Howard University Endowment Act".

(20 U.S.C. 130aa, note) Enacted October 17, 1984, P.L. 98–480, 98 Stat. 2245.

DEFINITIONS

SEC. 202. For purposes of this title—

(1) the term "endowment fund" means a fund, or a tax exempt foundation, established and maintained by Howard University for the purpose of generating income for its support, but which shall not include real estate;

(2) the term "endowment fund corpus" means an amount equal to the grants awarded under this title plus an amount equal to such grants provided by Howard University;

(3) the term "endowment fund income" means an amount equal to the total value of the endowment fund established under this title minus the endowment fund corpus;

(4) the term "Secretary" means the Secretary of Education; and

(5) the term "University" means the Howard University established by the Act of March 2, 1867.

(20 U.S.C. 130aa) Enacted October 17, 1984, P.L. 98–480, 98 Stat. 2245.

PROGRAM AUTHORIZED

SEC. 203. (a) The Secretary is authorized to establish an endowment program, in accordance with the provisions of this title, for the purpose of establishing or increasing endowment funds, providing additional incentives to promote fundraising activities, and encouraging independence and self-sufficiency at the University.

(b)(1) From the funds appropriated pursuant to this title for endowments in any fiscal year for the University, the Secretary is authorized to make grants to Howard University. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions deemed necessary by the Secretary to assure that the purposes of this title will be achieved.

(2) The University may receive a grant under this section only if it has deposited in the endowment fund established under this title an amount equal to such grant and has adequately assured the Secretary that it will administer the endowment fund in accordance with the requirements of this title. The source of funds for this institutional match shall not include Federal funds or funds derived from an existing endowment fund.

(3) The period of any grant under this section shall not exceed twenty years, and during such period the University shall not withdraw or expend any of its endowment fund corpus. Upon the expiration of any grant period, the University may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(20 U.S.C. 130aa-1) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

INVESTMENTS

SEC. 204. (a) The University shall invest its endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the law of the District of Columbia, such as federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(b) The University, in investing its endowment fund corpus and income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own business affairs.

(20 U.S.C. 130aa-2) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

WITHDRAWALS AND EXPENDITURES

SEC. 205. (a) The University may withdraw and expend its endowment fund income to defray any expenses necessary to its operation, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor entered into after January 1, 1981. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) The Secretary is authorized to permit the University to withdraw or expend more than 50 per centum of its total aggregate endowment income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(A) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(B) a life-threatening situation occasioned by a natural disaster or arson; or

(C) another unusual occurrence or exigent circumstance.

(c)(1) If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof).

(2) The University shall not withdraw or expend any endowment fund corpus. If the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an

amount equal to 50 per centum of the amount withdrawn or expended (representing the Federal share thereof) plus any income earned thereon.

(20 U.S.C. 130aa–3) Enacted October 17, 1984, P.L. 98–480, 98 Stat. 2246.

ENFORCEMENT

SEC. 206. (a) After notice and an opportunity for a hearing, the Secretary is authorized to terminate and recover any grant awarded under this title if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 205;

(2) fails to invest its endowment fund corpus or income in accordance with the investment standards set forth in section 204; or

(3) fails to account properly to the Secretary concerning investments and expenditures of its endowment fund corpus or income.

(b) If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this Act plus any income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

(20 U.S.C. 130aa–4) Enacted October 17, 1984, P.L. 98–480, 98 Stat. 2247.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There is authorized to be appropriated $2,000,000 for the purposes authorized under section 203. Funds appropriated under this section shall remain available until expended.

(20 U.S.C. 130aa–5) Enacted October 17, 1984, P.L. 98–480, 98 Stat. 2247.

CONFORMING AMENDMENTS

SEC. 208. [Conforming amendments to the Act of March 2, 1867, incorporated in text shown on pages 481–482].

EFFECTIVE DATE

SEC. 209. This title shall take effect on October 1, 1984.

(20 U.S.C. 130aa, note) Enacted October 17, 1984, P.L. 98–480, 98 Stat. 2247.

Herbert Hoover Memorial

AN ACT To recognize the fifty years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as thirty-first President of the United States, and in commemoration of the one hundredth anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to establish an appropriate memorial to the late President Herbert Hoover, the Secretary of the Treasury (hereinafter referred to as the "Secretary") is authorized to make grants, in accordance with the provisions of this Act, to the Hoover Institution on War, Revolution, and Peace, Stanford University, Stanford, California.

(b) No grant may be made under this Act for any fiscal year unless—

(1) the Secretary determines that the total of such grants for that year will not exceed the total amount of gifts, bequests, and devises of money, securities, and other property, made after the date of enactment of this Act, for that year for the benefit of the Hoover Institution on War, Revolution, and Peace; and

(2) the Hoover Institution on War, Revolution, and Peace furnishes to the Secretary such information at such times and in such manner as he may require.

(c) Grants made under this Act may be used for the construction of a new educational building to be used by the Hoover Institution on War, Revolution, and Peace, and for the equipment of such building.

Enacted January 2, 1975, Public Law 93–585, sec. 1, 88 Stat. 1918.

SEC. 2. (a) The Congress finds that, if a facility constructed with the aid of any grant under this Act is used as an educational facility for twenty years following completion of such construction, the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall, therefore, be deemed to be the period of Federal interest in such facility for the purposes of this Act.

(b) If, within twenty years after completion of construction of an educational facility which has been constructed in part with a grant or grants under this Act—

(1) the Hoover Institution on War, Revolution, and Peace (or its successor in title or possession) ceases or fails to be a nonprofit institution, or

(2) the facility ceases to be used as an educational facility, unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such Institution (or successor) an amount which bears to the then value of the facility the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility (as determined by the Secretary) financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under this Act shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

Enacted January 2, 1975, Public Law 93–585, sec. 2, 88 Stat. 1919.

SEC. 3. The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the Hoover Institution on War, Revolution, and Peace that are pertinent to the grant received.

Enacted January 2, 1975, Public Law 93–585, sec. 3, 88 Stat. 1919.

SEC. 4. The Hoover Institution on War, Revolution, and Peace shall, annually, prepare and furnish to the President and the Congress a report on the expenditure of funds received by the Institution in the previous fiscal year during the period for which grants are made under this Act.

Enacted January 2, 1975, Public Law 93–585, sec. 3, 88 Stat. 1919.

SEC. 5. There are authorized to be appropriated to the Secretary for making grants in accordance with this Act amounts not to exceed $7,000,000. Funds appropriated pursuant to this Act shall be available without fiscal year limitation, for the period beginning on the date of enactment of this Act and ending five years after such date.

Enacted January 2, 1975, Public Law 93–585, sec. 5, 88 Stat. 1919.

SEC. 6. Grants made pursuant to this Act shall be the sole Federal memorial to the late President Herbert Hoover.

Enacted January 2, 1975, Public Law 93–585, sec. 6, 88 Stat. 1919.

Grants to Eisenhower College and to the Samuel Rayburn Library

(P.L. 93–441)

AN ACT To authorize the Secretary of the Treasury to change the alloy and weight of the one-cent piece and to amend the Bank Holding Act Amendments of 1970 to authorize grants to Eisenhower College, Seneca Falls, New York

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SEC. 2. (a) Except as provided by subsection (b) and after receiving the assurances described in subsection (c), the Secretary of the Treasury is authorized to take one-tenth of all moneys derived from the sale $1 proof coins minted and issued under section 101(d) of the Coinage Act of 1965 (31 U.S.C. 391(d)) and section 203 of the Bank Holding Company Act Amendments of 1970 (31 U.S.C. 324b) which bears the likeness of the late President of the United States, Dwight David Eisenhower, and transfer such amount of moneys to Eisenhower College, Seneca Falls, New York.

(b) For the purposes of carrying out this section, there is authorized to be appropriated not to exceed $10,000,000.

(c) Before the Secretary of the Treasury may transfer any moneys to Eisenhower College under this Act, Eisenhower College must make satisfactory assurances to him that any amount equal to 10 per centum of the total amount of moneys received by Eisenhower College under this Act shall be transferred to the Samuel Rayburn Library at Bonham, Texas.

Enacted October 11, 1974, Public Law 93–441, sec. 2, 88 Stat. 1262.

Education Amendments of 1980

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TITLE XIII—MISCELLANEOUS PROVISIONS

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PART H—MEMORIALS

Subpart 1—The Robert A. Taft Institute

SHORT TITLE

SEC. 1371. This subpart may be cited as the "Robert A. Taft Institute Assistance Act".

Enacted October 3, 1980, P.L. 96–374, sec. 1371, 94 Stat. 1502.

GRANTS FOR DEVELOPMENT

SEC. 1372. (a) In recognition of the public service of Senator Robert A. Taft, the Secretary of Education is authorized to make grants to the Robert A. Taft Institute of Government, located in New York, New York.

(b) The total amount of grants under this section in any fiscal year may not exceed the total amount of private contributions received by the Institute for the fiscal year for which the grants are made.

(c) No payment may be made under this subpart except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

Enacted October 3, 1980, P.L. 96–374, sec. 1372, 94 Stat. 1502.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1373. There are authorized to be appropriated to carry out this subpart:

(1) $700,000 for fiscal year 1991;
(2) $550,000 for fiscal year 1992;
(3) $325,000 for fiscal year 1993; and
(4) $150,000 for fiscal year 1994.

No funds are authorized to be appropriated to carry out this subpart for fiscal year 1995 or any succeeding fiscal year

Enacted November 28, 1990, P.L. 101–638, sec. 1, 104 Stat. 4599.

Subpart 2—General Daniel James Memorial Health Education Center

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 1376. (a) In recognition of the public service of General Daniel James and as a memorial to General Daniel James, the Secretary of Education shall, in accordance with the provisions of this title, make a grant to establish the General Daniel James Memorial Health Education Center to be located at Tuskegee Institute, Tuskegee, Alabama.

(b) No grant may be made under subsection (a) of this section unless an application is made to the Secretary at such time and in such manner as the Secretary may provide. The application shall contain provisions designed to assure that—

(1) the building known as the General Daniel James Memorial Health Education Center will be located on the campus of Tuskegee Institute, Tuskegee, Alabama;

(2) the memorial will serve as a regional center for preventive health education and as a repository for papers and memorabilia relating to the life of General Daniel James; and

(3) such other reasonable conditions as the Secretary may require.

Enacted October 3, 1980, P.L. 96–374, sec. 1376, 94 Stat. 1502.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1377. (a) There are authorized to be appropriated $6,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

Enacted October 3, 1980, P.L. 96–374, sec. 1377, 94 Stat. 1503.

Subpart 3—The William Levi Dawson Chair of Public Affairs

SHORT TITLE

SEC. 1381. This subpart may be cited as the "William Levi Dawson Chair of Public Affairs Act".

Enacted October 3, 1980, P.L. 96–374, sec. 1381, 94 Stat. 1503.

ASSISTANCE FOR THE ESTABLISHMENT OF THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

SEC. 1382. (a) The Secretary of Education is authorized to provide financial assistance in accordance with the provision of this section to establish the William Levi Dawson Chair of Public Affairs at Fisk University, Nashville, Tennessee.

(b) No financial assistance under this title may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

Enacted October 3, 1980, P.L. 96–374, sec. 1382, 94 Stat. 1503.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1383. (a) There are authorized to be appropriated such sums, not to exceed $750,000, for the fiscal year 1981, as may be necessary to carry out the provisions of section 1802[1] of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

Enacted October 3, 1980, P.L. 96–374, sec. 1383, 94 Stat. 1503.

Public Law 98–480

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TITLE III—HIGHER EDUCATION PROJECTS

LIBRARY PROJECT AUTHORIZED

SEC. 301. (a) The Secretary of Education (hereafter in this title referred to as the "Secretary") is authorized to provide financial assistance, in accordance with the provisions of this section, to pay all of the cost of construction, and related expenses, for an addition to the William H. Mortensen Library at the University of Hartford located at Hartford, Connecticut, to enable the University of Hartford to house a collection of materials relating to Presidential campaigns and to American political history, known as the Presidential Americana, together with other collections.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $6,500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Enacted October 17, 1984, P.L. 98–480, 98 Stat. 2247.

HUMAN DEVELOPMENT CENTER FACILITY AUTHORIZED

SEC. 302. (a) The Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Kansas located in Lawrence, Kansas, to pay the Federal share of the cost of construction and related costs for a human development center facility at the University of Kansas, to be used as a national research and training resource for individuals acquiring expertise in the rehabilitation, education, parent training, employment, independent living, and public policy concerns of handicapped individuals and their families, and as a treatment resource for handicapped persons and their families.

(b) No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $9,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Enacted October 17, 1984, P.L. 98–480, 98 Stat. 2248.

CARL VINSON INSTITUTE OF GOVERNMENT AUTHORIZED

SEC. 303. (a) In recognition of the public service of Representative Carl Vinson, in order to enhance the program of service to State and local governments in Georgia and in other States provided by the Carl Vinson Institute of Government of the University of Georgia, and in order to preserve a historic landmark that provided special education opportunities for young women in Georgia and in other States at a time when such opportunities were limited or nonexistent, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the State of Georgia to renovate the physical facilities of the former Lucy Cobb Institute for Girls in Athens, Georgia, for the purpose of providing a center for the Carl Vinson Institute of Government of the University of Georgia.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated $3,500,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2248.

JOHN W. MC CORMACK INSTITUTE OF PUBLIC AFFAIRS

SEC. 304. (a) In recognition of the public service of the former Speaker of the United States House of Representatives, John W. McCormack, and of the pressing need for national centers for applied public policy research, the Secretary is authorized to provide funds in accordance with the provisions of this section to assist in the development of the John W. McCormack Institute of Public Affairs, located at the University of Massachusetts, Boston, Massachusetts.

(b) No payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require in order to certify the amount of eligible funds. All such payments may be used in furtherance of the mission of the McCormack Institute, which is defined as research, instruction, and civil education related to public policy and the role of representative government in the United States.

(c)(1) Funds appropriated pursuant to this section shall be made available to the John W. McCormack Institute on or after October 1, 1984, and prior to the close of the fiscal year ending September 30, 1987.

(2) There are authorized to be appropriated such sums as may be necessary to carry out this section for the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years, except that the aggregate amount so appropriated shall not exceed $3,000,000. Funds appropriated pursuant to this section shall remain available until expended.

Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2249.

Human Services Reauthorization Act

(P.L. 98–558)

* * * * * * *

TITLE V—HIGHER EDUCATION AND RESEARCH PROJECT

CENTER FOR EXCELLENCE IN EDUCATION AUTHORIZED

SEC. 501. (a) The Secretary of Education (hereinafter in this section referred to as the "Secretary") is authorized in accordance with the provisions of this title, to provide financial assistance to Indiana University located in Bloomington, Indiana, to pay the Federal share of the cost of the construction, and related costs, including renovation costs, for the Center for Excellence in Education facility at Indiana University, to be used as a national research and training resource for individuals who intend to become exemplary elementary and secondary school teachers and administrators.

(b)(1) No financial assistance may be made under this title unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) For the purpose of this section, the Federal share of the cost of the Center for Excellence in Education facility at the Indiana University should not exceed 50 percent.

(c) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this title shall remain available until September 30, 1987.

Enacted October 30, 1984, P.L. 98–558, 98 Stat. 2888.

RESEARCH CENTERS

SEC. 502. (a)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Utah located in Salt Lake City, Utah, to pay the Federal share of the cost of the establishment and operation (including construction, and related costs, including renovation costs) of a center for research on the health effects of nuclear energy and other new energy technologies.

(2)(A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(B) For the purpose of this subsection, the Federal share of the cost of the center shall not exceed 50 percent.

(3) There are authorized to be appropriated such sums, not to exceed $4,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

(b)(1) The Secretary shall, through the National Cancer Institute, establish or support at least one clinic or health facility for cancer screening and research in St. George, Utah. Such clinic shall be affiliated with a health science center capable of providing clinical, research, and interdisciplinary technical assistance to such clinic or facility, and shall make its services accessible to the preponderance of the residents of the areas that have received the greatest fallout from the Nevada nuclear tests.

(2) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

Enacted October 30, 1984, P.L. 98–558, 98 Stat. 2889.